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THE ROAD TO DETOUR LAKE

An Example of the
Environmental Assessment Process
in Ontario

the ROYAL COMMISSION on the
NORTHERN ENVIRONMENT



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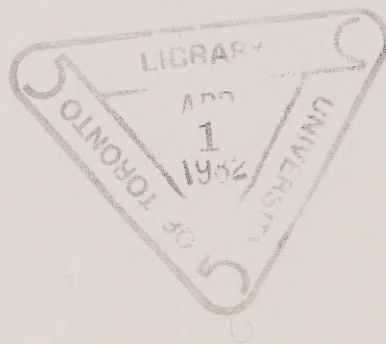
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Royal Commission on the Northern Environment
1981



Dr. Margaret Tanaszi carried out the research and wrote the report.
Ruth Burkholder assembled much of the basic background information.



Royal Commission
on the Northern
Environment

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PREFACE

Background

The mandate of the Royal Commission on the Northern Environment directs me to make recommendations concerning both the manner in which major development takes place in Ontario North of 50° and the means whereby decisions concerning such development are reached. The Commission is interpreting its responsibilities for this mandate, and accordingly conducting its research and public participation programs, in terms of my two overriding objectives. One is to explore various means of ensuring that Northerners are involved in decision-making on issues that affect them. The other is to find ways of ensuring that development, when it occurs, proceeds in an orderly fashion, working in concert with and not at the expense of the environment. These two objectives require me to address matters relating to decision-making on development in the North.

The Commission has undertaken case studies of representative major northern enterprises in order to examine the relationships between resource development initiatives, government roles, and decision-making, with particular reference to the land-use planning and environmental assessment processes. Following recommendations made by Mr. Justice Patrick Hartt, my predecessor, I initiated studies of the lignite mining and power generation project at Onakawana and the planning activities of the Ministry of Natural Resources in the West Patricia area; this work is still in progress.

This Commission's interest in the Detour Lake project goes back to early 1980. By then, the Provincial Government's support for development of a major gold mine there and for construction of an access road to the site was gathering momentum. For the Commission, the attractions of carrying out an objective case study of decision-making for the access road were particularly strong: the road undertaking seemed to be a fairly straightforward and typical northern development, it was to be subject to the Environmental Assessment Act, and a decision on it was to be rendered well within the Commission's life-span.

Objectives of the Study

Since the Environmental Assessment Act has been in force for about six years, the process for implementing it is neither tried-and-true nor smoothly-functioning. This case study of the access road to Detour Lake is meant to demonstrate the Commission's own obligation to assist the Government in shaping and refining a mechanism for implementing a promising piece of legislation that is important to everyone in the province. The main focus of the study is the environmental assessment process. And the report's main objective is to make a positive contribution to the implementation of the Act in conformity with its purpose by identifying problems that occurred in this case in the interpretation of the Act's function and purpose, in the administrative procedures that carried the process along, and in the implementation of the process through the preparation of an environmental assessment document. As this study demonstrates, such procedural shortcomings can have serious consequences for the decisions to be made at the end of the process.

Problems in the Application of the Environmental Assessment Act

The story of the road to Detour Lake, much of it told in the participants' own words, shows how the Government's support of the mine development, uncertainties about joint venture intentions, and conflicts and delays over environmental assessment procedures all contrived to make this development a compelling example of development initiatives, provincial planning and environmental assessment procedures in Northern Ontario.

The Detour Lake story had an unsatisfactory outcome; the final exemption of the road from further procedures under the Environmental Assessment Act served neither the achievement of the purpose of the Act nor public confidence in decision-making by Government. However, the story told is essentially one of bureaucratic snags and indecision in the face of looming deadlines, not of deliberate efforts on the part of the Government to undermine or evade application of the Environmental Assessment Act in this case.

The Environmental Assessment Act can play a crucially important role in balancing the legitimate concerns of development and environmental protection. However, its potential to accomplish this will not be realized unless the Government officials, politicians and members of the public involved in the environmental assessment process are informed about the Act and recognize their stake in making it work. What emerges very clearly from this study is that the public officials who were responsible for expediting the development and implementing the Act had several opportunities to play stronger and more-central instigating, facilitating and co-ordinating roles at key stages throughout the unfolding of the planning and environmental assessment process.

To say that public officials bear some of the responsibility for the unsatisfactory outcome in this case is not to assign to them all of the blame. The available evidence indicates that they applied themselves diligently to what was evidently a demanding and politically sensitive task. The small group of conscientious officials in the Ministry of the Environment's Environmental Assessment Section is working hard to improve the assessment process, while carrying the staggering load of administering it for all projects under the Act across the province. This case study offers them much needed external support.

Implications for Further Action

This study of the road to Detour Lake has contributed to the discharge of the Commission's mandate in two main ways. First, as the discussion has already shown, the findings in this case can point toward improvements in the administration and implementation of the environmental assessment process applied to other undertakings in the future. However, they cannot be used as the basis for making recommendations about fundamental changes to the Act itself or to the general guidelines established by the Ministry of the Environment for implementing the Act; to do so on the basis of a single case study would be logically untenable and irresponsible.

Second, the study serves as the Commission's first concrete public commitment to consult Northerners and other citizens of Ontario in the formulation of its own recommendations on decision-making. The Commission will reinforce this initial commitment progressively by the release of other studies on land-use planning and environmental assessment as applied to other major enterprises in the North.

J.E.J. Fahlgren
Chairman, Royal Commission
on the Northern Environment

This study would not have been possible but for the cooperation of the Ministries of Northern Affairs, Transportation and Communications, Natural Resources and the Environment. Officials within these ministries provided access to documentation relating to the Detour Lake Road and consented to the monitoring of meetings and the use of any information derived by the Commission in meeting its mandate. Commission researchers, Dr. Margaret Tanaszi and Ruth Burkholder, were thus able to have that rare opportunity of not only observing the internal process of Government, but also to be able to report frankly and fully about what they have observed, referring to actual minutes, internal memoranda and reports for substantiation.

The Royal Commission on the Northern Environment actively solicits public response and commentary on all aspects of its research and public program.

THE ROAD TO DETOUR LAKE

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INTRODUCTION

The Royal Commission on the Northern Environment is responsible for investigating a wide range of issues relating to both the natural and human environment; this range includes specific concerns such as the economy, environmental assessment and decision-making processes. As an Ontario Government commission, the Royal Commission on the Northern Environment must look at the issues in its area of responsibility from a provincial perspective, but with a main focus on the Northern environment and the people of Northern Ontario.

Specifically, the Commission's mandate includes responsibility for the following:

- "1. to inquire into any beneficial and adverse effects on the environment...for the people of Ontario of any public or private enterprise, which, in the opinion of the commission, is a major enterprise north or generally north of the 50th parallel of north latitude...."*
- 2. to inquire into methods that should be used in the future to assess, evaluate and make decisions concerning the effects on the environment of such major enterprises;*
- 3. to investigate the feasibility and desirability of alternative undertakings north or generally north of the 50th parallel of north latitude, for the benefit of the environment
....*
- 4. to report and make such recommendations to the Minister of the Environment from time to time and as expeditiously as possible with respect to the subject matter of the inquiry as the commission deems necessary and desirable to carry out the purpose of The Environmental Assessment Act, 1975."*

The Commission is interpreting its responsibility for this mandate, and accordingly conducting its investigation, in terms of two main objectives. One is to explore various means of ensuring that Northerners are involved in decision-making on issues that affect them. The other is to find ways of ensuring that development, when it occurs proceeds in an orderly fashion, working in concert with and not at the expense of the environment. These two objectives require the Commission to address matters relating to decision-making in general, and decision-making on development in the North in particular.

This report examines the relationships between resource development initiatives, government roles and the environmental assessment process, with reference to the access road to the Detour Lake mine site. The main focus of the report is the environmental assessment process itself. And the report's main objective is to make a positive contribution to the implementation of the Environmental Assessment Act in conformity with its purpose by identifying problems, inconsistencies and administrative difficulties, as they occurred in this case. An examination of the ways in which government responsibilities were carried out in this case allows problems to be identified in the interpretation of the Act's function and purpose, in the administrative procedures that carried the process along, and in the implementation of the process through the preparation of an environmental assessment document. A careful study of these procedures provides an opportunity for finding the means to better administration and implementation of the environmental assessment process in the future, and for an interpretation of the Environmental Assessment Act which would ensure that decisions can be made through the environmental assessment process in complete conformity with the purpose of the Environmental Assessment Act.

The Commission has undertaken this study from a positive perspective, and in conjunction with the interests of the Government of Ontario in serving the people of the province. Problems in the administration of the environmental assessment process can have serious consequences for the decisions to be made at the end of the process, which in turn have implications for the people of Ontario affected by those decisions, as well as for the Government.

The Commission believes that it is important to address ways of improving the environmental assessment process in Ontario and this has importance for both the Government and people of the province, and particularly for the future of the North. Since the Environmental Assessment Act has been in force for only about six years, the process for implementing it cannot be considered as being tried-and-true, or smoothly-functioning; it still has to be tested, tried and refined. This report is meant to demonstrate the Commission's own obligation to assist the Government of Ontario in shaping and refining a mechanism for implementing a promising piece of legislation that is important to everyone in the province.

During 1980 and 1981, the "Detour Lake development" was both complicated and significant for Ontario. Discussions on the appropriate form for the Province's "agreement in principle" with the joint venture, uncertainties and ambiguities about joint venture intentions, and conflicts and delays over environmental assessment procedures all contrived to make this development a compelling example of development initiatives, provincial planning and environmental assessment procedures in Northern Ontario. The insights it provides, as the story unfolds, make it particularly deserving of the Commission's attention.

THE PROVINCIAL INTEREST

The Detour Lake Development

The Discovery

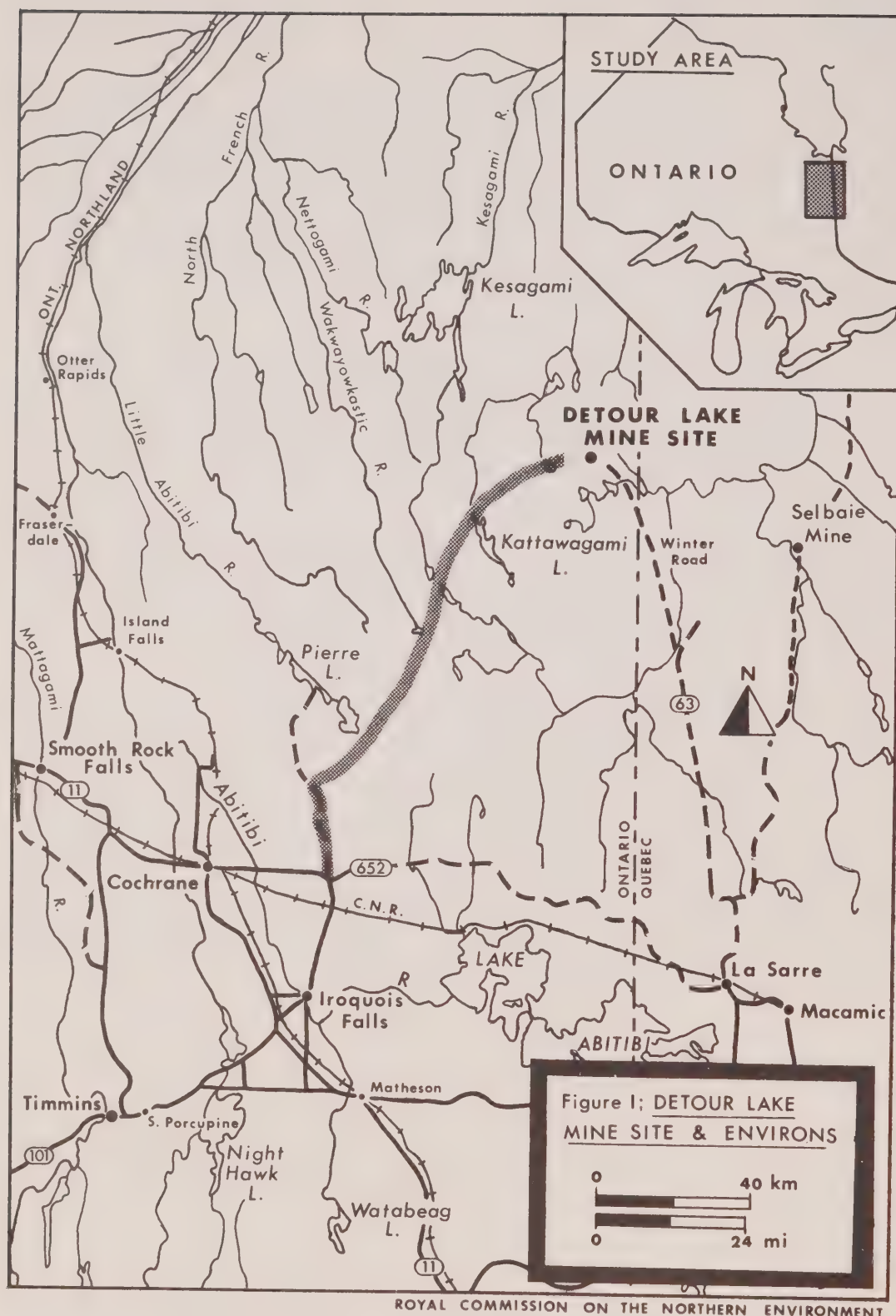
In 1975 Amoco Canada Ltd. discovered gold. A large body of mineralization was discovered approximately 90 miles northeast of Cochrane, Ontario and about 8 miles from the Quebec-Ontario boundary, as shown in Figure 1. The discovery was made in conjunction with a geophysical survey being conducted by Amoco for base metals in 1974. In the autumn of that year, diamond drilling for core samples was done at the Detour Lake site; by the time the third hole was drilled, Amoco knew that this was a potential gold deposit.

Initial estimates indicated a reserve of approximately 6.2 million tons of ore, graded at .19 ounces per ton; copper was also shown to be present at .2 per cent. Later findings indicated that the deposit is considerably larger than first determined but at a lower grade for gold. The zone of gold-bearing rock was traced down to a depth of 1800 feet and was considered "open to depth", that is, it could be expected to continue to deeper horizons. The Detour Lake ore deposit is a homogeneous field of multiple quartz veins, a deposit, as Dome says, *"of sufficient continuity and regularity on which to base a production decision"*. This represents one of the largest gold ore reserves in the country.

Discovery of a deposit this size was welcome news to the mining industry, and was particularly significant for Ontario's economy. No new gold mines have been discovered in the province for over ten years. The Detour Lake discovery was also significant for future exploration and potential development. The mineralization arc with economic potential that extends westward in Quebec from Chibougamau, Matagami and Val d'Or to Selco's Selbaie mine near the Ontario boundary was proven by the Detour Lake discovery to go even further west into Ontario. Selco had discovered the Selbaie deposit by looking west of known deposits in Quebec; Amoco was thus encouraged to explore west of the Selbaie mine.

In 1976, environmental studies of the area began, including assessments over two years of water quality, soils, vegetation and fisheries, and then, climatology, air quality, and wildlife. The year after that, in 1978, the first feasibility studies were carried out to determine appropriate locations for the plant site and tailings pond. By this time, the price of gold had increased to a point that made mining it profitable.

In January 1979, Amoco decided to invite other companies who were familiar with gold mining to participate in the development as business partners. Dome Mines Ltd. was selected and welcomed into a joint venture arrangement. Dome Mines is the parent company of Campbell Red



Lake Mines, and as joint venture participants, both companies obtained the right to earn a 25 per cent interest in the property by each investing \$5,000,000 in exploration activities. Early in 1981, Dome and Campbell earned their combined 50 per cent interest in the property. Campbell acts as the operator of the work program for the mine development, and prepared the detailed feasibility study which formed the basis of the development plan.

After the joint venture was established, Campbell Red Lake's early involvement as operator focused on investigations to confirm or modify Amoco's original findings on the size and grade of the ore deposit. In the spring of 1980, Campbell conducted preliminary engineering studies, the purpose of which, according to the company's 1980 Annual Report, *"was to develop an understanding of the nature of the gold occurrences in the various zones and their relationship to each other"*.

No commitment to proceed with the project was made by the joint venture in 1980, although as early as February of that year a representative of Dome Mines told a meeting of officials from several government ministries that the company was *"satisfied that there is an economically viable mine that will be placed into production"*.

Campbell's 1980 Annual Report says that for ore reserve estimation and mine planning purposes, a Main Zone, combining three distinct types of ore, was established, and explains,

"Surface diamond drilling indicates that the Main Zone has continuity to the 550 meter (1,800 foot) level and is open to depth. On the 120 meter level, the Main Zone is 300 meters long and, on average, 40 meters wide.

"Based on surface diamond drilling, ore reserves including dilution, have been estimated as follows:

	<u>Tonnes</u>	<u>Grams per tonne</u>	<u>Ounces per tonne</u>
Main Zone	16,041,000	4.36	0.140
Other Zones	<u>11,692,000</u>	<u>3.22</u>	<u>0.104</u>
	<u>27,733,000</u>	<u>3.88</u>	<u>0.125</u>

"Ore estimates include 4.66 grams of silver per tonne and 0.205 percent of copper.

"The probability of adding to the reserves is good. The Main Zone is open to depth and indications of mineralization away from the defined zones provide excellent exploration targets."

The Development Plan

The development plan calls for a production target date of October 1983. Initial mine operations will consist of extraction of "mill feed" at a rate of 2,000 tonnes per day from an open pit which could be up to 1/2 mile long and 1/4 mile wide. At 2,000 tonnes a day, the pit has an estimated life of five and a half years to a depth of 120 meters. Toward the end of 1983, mobilization will begin for the underground development, which is expected to supply ore at a rate of 2,000 tonnes a day by 1987. Underground production will be expanded to 4,000 tonnes a day once the pit reserves have been exhausted.

The construction schedule requires that basic services be installed in 1981, that major construction take place in 1982, and milling facilities be built in 1983. Campbell's Annual Report for 1980 explains,

"Capital expenditures prior to start-up in 1983 are estimated to be \$143,000,000. Approval of the participants has been received for the expenditure in 1981 of \$23,000,000 for the construction of a permanent camp, site roads, water supply and other services. In 1982 all major buildings will be erected and preparation for open pit mining will begin. Equipment for the processing and other service facilities will be delivered and installed in 1983. All construction material for the project will have to be delivered to the site over a winter road."

The on-site process will consist of milling the ore and concentrating the minerals into two streams--gold and copper. The gold will be formed into bars and shipped out at a rate of one or two bars a week to Ottawa where it will be processed at The Royal Canadian Mint. The gold will be transported by some kind of security surface transport or flown directly to Ottawa. The copper concentrate will be shipped by truck to the smelter at Noranda, Quebec, at a rate of a truckload a day.

The mine site, approximately 12,500 acres, is being leased by the joint venture from the Province, through the Ministry of Natural Resources, for 21 years; the original claims on the property were staked by Amoco in 1974. A claim gives title to a unit of land for a year for exploration purposes; a lease requires that a certain amount of pre-production work has been done and a certain amount of pre-production money has been spent. By the end of 1980, Dome and Campbell had spent \$4,360,000 each on the project.



Photo 1; Base camp for construction, Detour Lake mine site, photographed September 1981.

The site is presently accessible only by winter road from La Sarre, Quebec, and by float/ski aircraft. There were over 70 men on the site as of May 1981 engaged in mine exploration and initial construction work. Of these, 24 were from Cochrane, 9 from La Sarre, 7 from Sudbury, 5 from Timmins, and 2 from other communities in Northern Ontario; the remaining men were from various locations in Southern Ontario. The workers are housed in ATCO bunkhouses and are transported by air to and from Cochrane and Timmins. Electricity for the site is supplied by diesel generator, and supplies for the year have been hauled to the site by winter road. Of the 13 contracts awarded by the end of April 1981, 6 were won by contractors based in Cochrane, 2 in Sudbury, 2 in La Sarre and 3 in Southern Ontario.

When production begins, the operating work force will consist of 260 employees and will increase to 490 over a five-year period as the open pit mining operation is augmented and then replaced with underground operations. Manpower requirements for mine-mill construction and operation have been estimated as follows:

Tentative Construction Manpower Scheduling*

mid-1980	60	man-years of labour
1981	360	"
1982	360	"
mid-1983	<u>360</u>	"
Total	1140	man-years of labour over 36 months

* from the Environmental Assessment Report, Detour Lake Access Road, Ministry of Transportation and Communications, January 1981

Manpower Requirements for Mine-Mill Operation*

	<u>Open Pit Phase</u>	<u>Underground Phase</u>
Mine	84	290
Mill	59	60
Plant	80	95
Administration	<u>43</u>	<u>43</u>
Total	266	488

* from the Vice-President, Dome Mines Ltd., May 1981

No townsite is planned at the mine location. On April 30, 1981, however, the Minister of Housing signed a zoning order affecting a portion of land in the Detour Lake area. The order, pursuant to Section 32 of the Planning Act, regulates the use of land, buildings and structures by allowing for the placement of mobile home units. These units, according to an official of Campbell Red Lake, will house single men who remain as permanent employees after the construction period. Employees will work 12-hour shifts for probably seven days, followed by an equal number of days off; they will be transported to and from work on a rotational basis according to the work schedule.

Access: Securing the Benefits

A development like this should have significant economic benefits for the major towns nearby, such as Cochrane, Iroquois Falls and Timmins. These benefits would be derived from direct employment in mine

construction and operation, as well as from indirect positive impacts on secondary manufacturing and the provision of wholesale and retail goods and services in the area. With such a large number of workers located nearby, and spending seven days off, these towns should reap significant economic benefits from workers spending time and money there.

The Government of Ontario gave serious consideration to the advantages the province could enjoy from such a large-scale mining development. The potential economic benefits to communities like Cochrane, Iroquois Falls and Timmins from the mine development were obvious, and Ontario was clearly justified in wanting to enjoy the benefits of its own mineral wealth. This consideration raised the question of access to the mine site. The joint venture wanted access to the mine site from either Ontario or Quebec. And each province had an interest in securing the spin-off benefits from the mine development to its own advantage.

In initial discussions between joint venture and Ontario government officials, a number of options were identified for transporting goods and workers. These included: flying in and out with a nearby town as a base (Cochrane, Timmins, Kirkland Lake, La Sarre); surface transportation to and from a dormitory community (again, Cochrane, Timmins, Iroquois Falls, La Sarre); establishing a townsite at or near the mine site. Neither joint venture nor government officials favoured the townsite option because of high costs and isolation effects. This left air or surface transport as the options to be considered.

Preliminary investigations indicated that the construction of an airstrip and the operation of a daily, 50-passenger air commuting service from Cochrane would be economical for the joint venture, and would spare the Ontario public the burden of the costs incurred in constructing an Ontario road. The joint venture, however, disapproved of the air option because of the dependence of aircraft on weather conditions. This left surface transportation as the favoured option. It was clear that the joint venture wanted a road to the mine site, but with no apparent preference: a road to either province would do.

In fact, as early as March 1978, Amoco Canada Ltd. made a formal request to the Minister of Natural Resources for financial assistance in constructing a road to the site of the proposed gold mine. The Ontario Government, for its part, was interested in the provision of an Ontario road to the site as a means of keeping the economic benefits from the mine in Ontario.

Two months after Amoco made its request for provincial assistance, according to a report by Cochrane District of the Ministry of Natural Resources, the Ministry's Northern Region forwarded to its Main Office a preliminary investigation of options on this matter.

The report says, *"It was our recommendation that incentives should be provided to the development as,*

- 1. Access from the East would mean the benefits would accrue to P.Q.*
- 2. Further exploration of two major greenstone belts would be encouraged, and*
- 3. The road might eventually be phase 1 of a road to Moosonee."*

A year later, on July 6, 1979, the Ministry of Natural Resources called and chaired an interministerial meeting on the development, *"in an attempt to develop a provincial policy for the [proposed gold mine and access road] project"* as the Deputy Minister of the Environment said in a letter in May 1980. Present were representatives from the ministries of Natural Resources, Northern Affairs, Environment, Transportation and Communications, Energy, Labour, and Industry and Tourism, and from the Cabinet Committee on Resources Development and Ontario Hydro. According to a reference to this same meeting in a report by the Ministry of Natural Resources' Cochrane District,

"In July of 1979 the first of a number of inter-ministerial meetings were held. The meeting consisted of information passing with some emphasis on the benefits to be derived from the road. At this meeting it was noted that opposition could be expected from the tourist outfitters. No formal proposals came out of the meeting and it appeared MNR [Ministry of Natural Resources] and MNA [Ministry of Northern Affairs] would meet with A.M.O.C.O. once they had selected their business partners."

Notes of the meeting prepared by a representative of the Ministry of the Environment indicate that even at this early stage the proposed Detour Lake project was going to pose some interesting and awkward problems. The key problem, it seems, was the equivocal stance of the mining company toward the two provinces, Ontario and Quebec. The company, say the notes, *"is playing off Quebec and Ontario in order to get the best on provincially subsidized servicing"*, and adds, *"It is apparent that Quebec has offered to construct a road to the provincial boundary free of charge to the company."* A road from Quebec would be considerably shorter than one from Ontario. The joint venture saw the issue of power supply in the same way as they regarded road access: it could be from either Ontario or Quebec. A Hydro Quebec transmission line, perhaps from Matagami, Quebec, through the Selbaie Mine to Detour Lake, would be considerably shorter than an Ontario Hydro line from either Hunta Switching Station near Cochrane or Pinard Transformer Station in Abitibi Canyon. To provide Ontario

power would require a 90-mile line, but from Quebec a line would need to be only 40 miles; in either case the company would have to bear the costs of building a power line. The issue of power supply to the Detour Lake mine presented the same question as that of the road: Would it be an "Ontario development" or a "Quebec development"?

The Ministry of Transportation and Communications pointed out at the same meeting that in order for provincial funding to be provided, there would have to be spin-off benefits to the province. But, the notes concluded, *"Other than opening up a new section of the Province, there are no apparent spinoff benefits since there are no other resources likely available enroute."*

Here is a summary of the meeting as outlined in the Ministry of the Environment official's notes:

- "1. There is a general consensus that most of the facilities including labour, are on the Quebec side and only the mine itself is located in Ontario. Additionally, since there will likely be a joint venture with somebody such as Selco, there aren't too many advantages to the Province of Ontario.*
- 2. Spin-offs to Ontario from provincial funding will be few.*
- 3. The proposed costs of the project, excluding roads or power is in the \$50-\$100 million.*
- 4. Access to the site through Ontario will likely cost \$15 million more than access through Quebec.*
- 5. If a joint venture with Selco is undertaken, then the operating costs of the mine from the Quebec side would be very much less than from the Ontario side.*
- 6. Based on the proposed job creation, the cost to Ontario to fund a road would be in the order of \$30,000 per job."*

Despite this negative picture, the matter was pursued nonetheless. Following the July 6, 1979 meeting, according to a Ministry of Northern Affairs representative who attended it, several informal meetings were held during the autumn of 1979 between the Minister of Northern Affairs and the joint venture officials.

Later discussions and documentation on the proposed road indicated that the rationale being advanced for it was as a stimulus to potential development in a number of economic sectors. Access to the mine consequently became one of several reasons for building a road in this part of Ontario. The major justification for a road like this appeared to be the potential for resource development on a regional scale, with all the economic benefits that this implies.

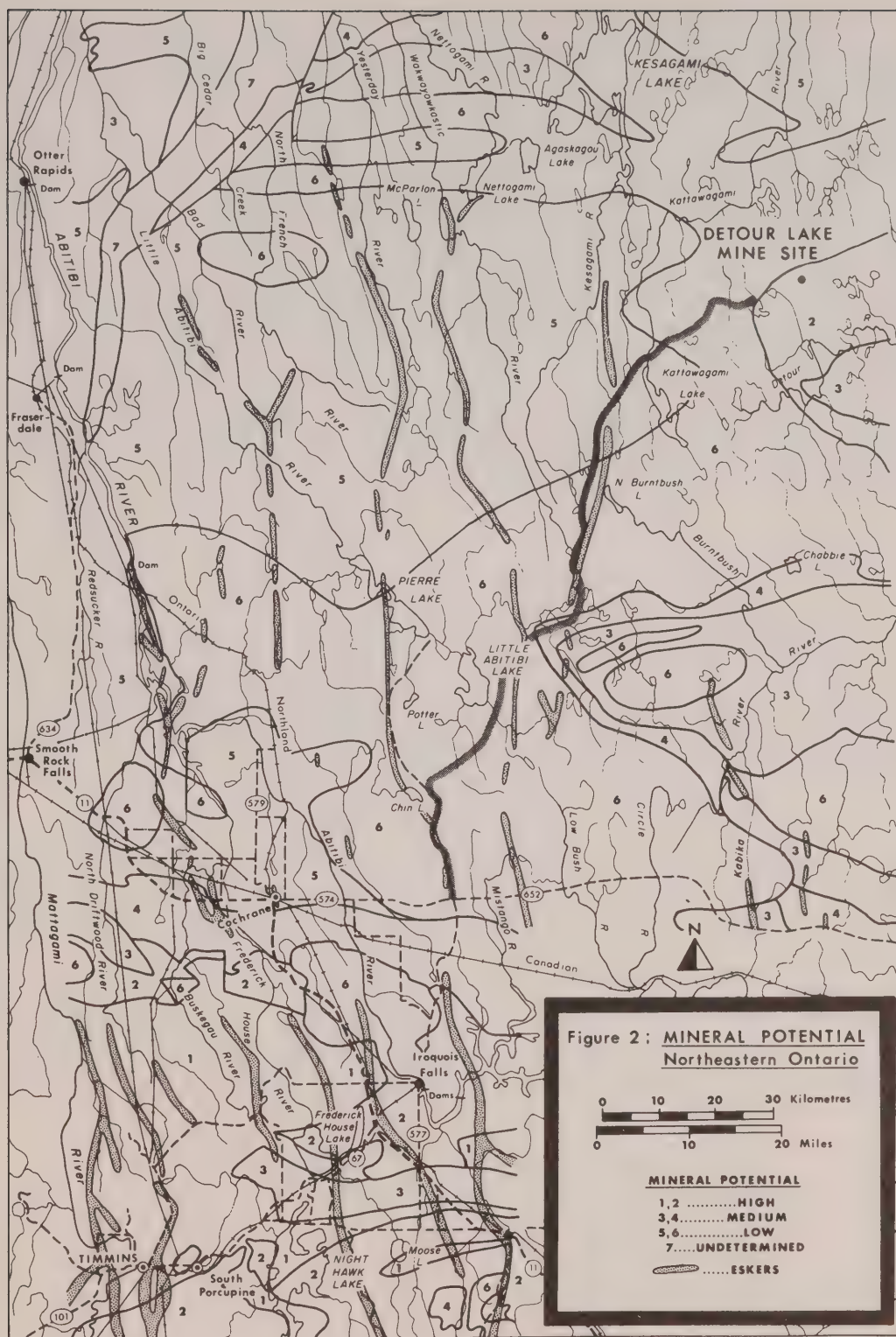
Potential for Resource Development

There is already evidence of considerable potential for resource development in Northeastern Ontario, as indicated in Figure 2. Apart from the fact that gold was discovered in an area that was not expected or at least not known to have contained it, recent investigations have estimated that an area northwest of Detour Lake and directly west of Kesagami Lake shows high mineral potential. At present, over 3,000 claims have been staked in the Detour Lake area alone, both above and below the 50th parallel, including Amoco's and the joint venture's. In fact, several companies are presently engaged in mineral explorations in the same area.

West of Detour Lake, for example, near Abitibi Canyon along the Ontario Northland Railway tracks, is an area of 411,000 acres under an Exploratory Licence of Occupation in the name of Hudbay Mining Ltd. who are exploring for base metals. Since the time the licence was taken in 1977, the area under exploration has been concentrated to about 200,000 acres. In addition, there is an area of about 12,700 acres approximately 60 miles south of Moosonee, bordering the ONR tracks on the east, which is leased to Onakawana Development Ltd. for 21 years for the purpose of strip mining lignite, a low-grade coal.

Surrounding the Onakawana lease and running southwest along the Missinaibi River is an area of 900,000 acres which is under an Exploratory Licence to the Ontario Energy Corporation, a provincial Crown corporation that has a three-year term licence from 1980. In that same area, Licences of Occupation were granted in 1980 to the following: Selco Mining Corporation Ltd., over 243,000 acres for 5 years; Lignasco Resources Ltd., over 85,000 acres for 3 years; Mr. A. Taylor, over 15,000 acres for 3 years.

Consolidated Morrison Ltd., through its parent company, Argon Exploration Ltd., retains a large holding about 25 to 30 miles southeast of Moosonee of approximately 10,000 acres which contains a major columbium deposit. Columbium, or niobium, is an element used in the hardening of specialized steel products. The deposit has been assessed as the largest in Canada and one of the largest in North America. If this site is ever developed, it could provide columbium for American smelters, although at present there is neither surface access nor a power supply available for developing it. The major columbium deposits in the world are in Canada and Brazil, and in Canada they are largely in Northeastern Ontario; in addition to the Consolidated



Morrison site, there are columbium deposits near Chapleau and North Bay, and on the James Bay property of Imperial Oil Enterprises Ltd.

According to one view of resource development, any kind of access into a remote region increases the incentive for further access to be established and for further exploration and development to be undertaken. Along this line of reasoning, the access road to the Detour Lake mine site could be considered a "Northeastern Ontario Access Road". Although potential mineral deposits to be developed may be a considerable distance from the initial penetration into a remote area, the new lines of access could extend from the first one, according to this view. The possibility of this kind of cumulative access into remote areas might thus reduce the amount of money, time and distance involved in what otherwise might be too daunting a prospect for exploration and development initiatives. The Moosonee Access Road Study in 1974, for example, explored the possibility of a road to James Bay, but no decision was made until further studies were carried out on possible natural resources development in Northeastern Ontario. The Detour Lake gold discovery appears to have stimulated a reconsideration of providing access into remote parts of Northeastern Ontario.

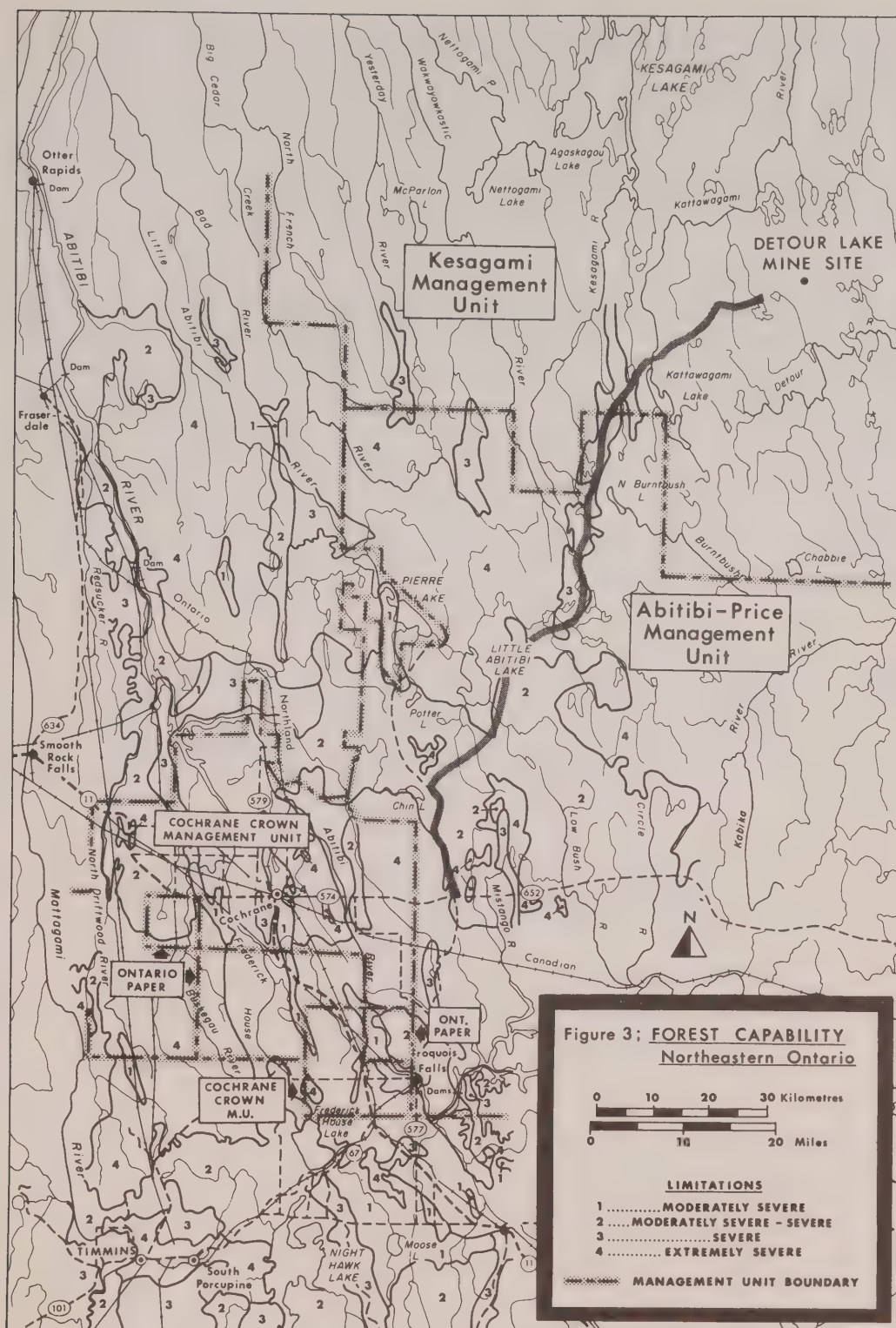
Ontario and Quebec: Who Gets the Benefits?

Throughout 1980, the Government of Ontario considered the options for provincial involvement in the construction of an Ontario road to the site, but the nature and degree of provincial involvement in this project was not established until late 1980. In fact, there was no commitment from the mining consortium to proceed with the mine development until early 1981.

It seems, however, that Ontario was interested in a provincial highway to the Detour Lake mine on two grounds: that it would serve to keep most of the benefits from the mine development in Ontario; and that it would provide access into a remote part of the province, access which might stimulate further resource exploration and development in the northeast of the province, the potential for which is indicated in Figures 2 and 3. These points were advanced a year later as the rationale for the proposed road in a consultant's report for the Ministry of Transportation and Communications, which says,

"The development of this area of Northeastern Ontario would provide a stimulus to the economy of Northeastern Ontario and provide avenues for future exploration in the area. The incentive to construct the road now is also to accommodate the needs of the Detour Lake Joint Venture."

Likely for these reasons, the Ontario Government apparently came to some agreement with the joint venture about providing an Ontario



road to the mine; Campbell's 1980 Annual Report, presented to the shareholders' meeting on May 8, 1981, had this to say:

"The property is relatively inaccessible with Cochrane, to the southwest, being the nearest community. Agreement in principle has been reached with the Government of Ontario regarding construction of ninety-four miles of road to provide access from the Cochrane-Iroquois Falls area. Completion is expected prior to start-up in 1983."

By the autumn of 1980, work was underway on environmental studies and engineering design work on a proposed road to the Detour Lake mine site from Highway 652 east of Cochrane, Ontario. The joint venture agreed to build a 24-mile portion of the road from the mine site to meet the government road.

Facilitating the Development

The Interministerial Committee

The Government of Ontario's involvement in the Detour Lake development demonstrated a provincial policy of facilitating development in the interests of securing as much benefit as possible for Ontario. To achieve the provincial objective of maximizing benefits from the proposed mine for Ontario, and thus to encourage the development to Ontario's advantage, the Government set up an interministerial committee to act as a co-ordinating mechanism between government ministries and the joint venture.

On December 21, 1979, the Deputy Minister of Northern Affairs sent a memo to his counterparts in the ministries of Transportation and Communications, Natural Resources and Environment asking for a representative from each ministry to sit on an interministerial committee *"to facilitate the company's on-going contacts and discussions with the Provincial Government"*. He added that there were *"certain urgencies associated with this project"* and requested co-operation for a meeting early in January 1981. No mention was made at this time of any other ministries, in addition to those specified, being represented on the Committee. The chairman of the new Committee was an official from the Ministry of Northern Affairs.

The first meeting of the formal "Detour Lake Mine Interministerial Committee" was held on February 21, 1980. The minutes of that meeting suggest that the Committee's work was to be the practical application of the provincial government's positive view of the development:

"The first hour and a half of the meeting was devoted to review of the background to the project by the Committee members, and the role of the Committee. It was agreed that the Committee's prime function was that of coordination between the Provincial Government and the mine developer - Dome/Campbell/Amoco, with a view to encouraging the development in the best interests of Ontario."

As the first chairman explained it, the Committee's role was to act as *"a point of contact"* between the Province and the mining company officials. There was a general understanding that this group was to facilitate the project in whatever way possible or necessary. Otherwise, there were no specific terms of reference for the Committee.

The focus of the Committee's work was made known at the first meeting, at which Dome officials outlined their plans and requirements

for the mine development; the Committee's task would take shape in relation to those requirements. The minutes report,

"The Company would like road access into Ontario, preferably available in time for the mine site development (i.e. end of 1982) and is quite prepared to share in the cost of construction. They did not rule out the possibility of a road to Quebec, regardless of an Ontario decision.

"Dome has agreed to meet with the Cochrane Board of Trade on March 12, 1980 to present a progress report to the local communities....Dome does not expect to make any firm commitments at that time, but will express their optimism, and undoubtedly seek Provincial support for the road access."

At this point, the task called for *"negotiations on the possibilities for road access"* which were to take place at future meetings, since *"no commitments were made on either side"* at this first meeting.

At this first meeting, tasks in gathering the necessary background information were assigned *"in preparation for future discussion"*, namely:

- "1. Identification of any maintenance agreements on the access roads presently existing in the project area...*
- 2. Review of the design standards used to estimate the cost of the road construction by MTC [Ministry of Transportation and Communications]....*
- 3. Determination of MNR [Ministry of Natural Resources] road construction plant, DREE [Department of Regional and Economic Expansion] possibilities, Abitibi harvesting plans etc. in the project area....*
- 4. Explore funding mechanisms available - NORT; [Northern Ontario Resources Transportation program] MNA [Ministry of Northern Affairs] funded MNR roads etc...."*

At the March 25, 1980 meeting it was noted that *"a considerable amount of background information was available, but had not been gathered into one place"*, and the following tasks were assigned:

- "1. - location of all known mineral deposits and a brief note on economic potential
 - areas of current mineral exploration activity
 - present and projected forest licence limits and cutting plans, including roads
 - present and proposed parks, park reserves, and fly-in tourist operators
2. - background engineering and environmental work done for study of Moosonee-Cochrane road in 1973/74 - policy decisions, public discussion, etc."

An official from the Ministry of Transportation and Communications presented some preliminary cost figures for road construction, and jurisdiction over the road was discussed, particularly with reference to the fact that *"public ownership of any roads through forest cutting areas could have adverse economic effect(s) on operators"*. Further considerations included:

- possibilities for using small packaged hydro-electric generating plants in place of high-cost line power
- alternatives to the construction of a road (i.e. air commuting, hovercraft)
- mineral potential maps describing known mineral deposits in the study area
- meetings with MTC concerning base mapping of the area, road standards, route location

These minutes indicate that the Committee was doing its job responsibly and thoroughly.

Other Actors

The Minister of Northern Affairs played a central role in the Interministerial Committee's work of encouraging the development in the best interests of Ontario. At the second meeting, March 25, 1980, the Committee heard reports of other meetings relevant to the development which involved the Minister. He met with an official of Dome Mines to discuss an outline of Dome's plans and approach, and according to the Interministerial Committee minutes, the Minister *"indicated his support for the project, and outlined the tasks of the interministerial committee (i.e. road, townsite location, power supply)"*. At the Cochrane Board of Trade meeting earlier that month, the Minister *"noted the formation of this Committee, and indicated that the mine development was one additional reason for building a development type road into the area"*. This remark indicates more

than support for the project; it suggests a predisposition to opening up the northeast of the province.

The importance of the Northern Ontario Resources Transportation Committee to this development, and to the work of the Interministerial Committee, deserves mention. According to a pamphlet describing NORTC, and the NORT program,

"The purpose of NORTC is to support construction programs for transportation improvements, calculated to promote economic growth and development of resources in Northern Ontario. The Committee's programs are flexible, responsive and are designed to aid resource-based enterprise in the early stages of development or operation. NORTC cooperates with other government agencies and with private interests in determining access needs, and directs the disposition of funds voted annually by the Ontario Legislature to support the work of the Committee."

This program demonstrates a provincial commitment, in policy and funding provisions, to encouraging projects like the Detour Lake mine.

The minutes of the Interministerial Committee meeting of March 25, 1980 give a synopsis of a meeting of the NORT Committee, the Minister of Northern Affairs and representatives of the ministries of Natural Resources, Northern Affairs, and Transportation and Communications on the previous day. It was agreed at that meeting *"that the NORT Committee provided a convenient reporting mechanism for [the] Detour Lake committee to keep the Minister [of Northern Affairs] informed"*, and *"that NORT could serve a useful role in getting some quick progress (e.g. clearing) if time became short"*. This remark may have been a reference to the exemption of some NORT roads from full environmental assessment requirements.

Role Changes

Certain issues raised at the second meeting on March 25, 1980, pertained to the whole region, or even the province, and therefore put the Committee's work on a broader basis, as these examples from the minutes indicate:

"It was agreed that for the purpose of background information collection and investigation of potential benefit to the Region, the study area shall be the area north of Cochrane to James Bay and east to the Quebec/Ontario boundary."

"It was felt that it would be useful to have an assessment of the Detour Lake project in terms of economic benefit to the Province, i.e. direct and indirect employment, taxation base, etc. [Cabinet Committee on Resources Development] will pursue this with [Ministry of Industry and Tourism]."

These kinds of concerns cannot be considered as simply liaison or co-ordination, that is, as part of the Committee's original role; they properly belong in the sphere of planning, particularly regional planning. It could be expected that each Committee member could rely to some extent on the considerable resources of his own line ministry, but it is questionable whether the time and resources available to this group were adequate for planning purposes. And is a committee like this the best group to be addressing regional planning issues?

The minutes of the April 17, 1980 meeting report that *"a number of possible arrangements were discussed with respect to the funding and construction of the road"*, and these were listed as follows:

- "1. Province fund 100%, build and hold title to road*
- 2. Province fund 100%, build and turn title over to Company*
- 3. Province contributes funds, Company build and hold title*
- 4. Province contribute grant not tied to road, but conditional upon creation of jobs, purchase of supplies, etc.*
- 5. etc. etc."*

The Chairman was responsible for discussing these options with mining company officials and the Access Roads Manager of the Ministry of Transportation and Communications. The Committee *"generally felt that a Provincial contribution should be matched by a commitment of some kind by the Company"*, but it was not made clear what form such a commitment should take. The joint venture came up with its own suggestion, reported at the next Committee meeting on May 14, 1980, that

"...the company build and fully pay for construction of a road prior to the mine opening, and the province would then assume jurisdiction over the road after the mine went into production, and would pay a fixed proportion of the capital cost of the road subject to certain performance guarantees provided by the company."

It appears that the company was willing to strike a bargain over the provision of road access to the mine, but not to the point of assuming full responsibility for it; the company's original objective, after all, was to get assistance from the Province. If the road were constructed by the joint venture, however, it would be considered a private undertaking and not subject to Ontario environmental legislation unless specifically designated as such.

The Committee's role seems to have evolved over four months into a wide-ranging, undefined assortment of responsibilities. By the fourth meeting on May 14, 1980, the Committee appeared to have become aware of its wide range of responsibilities, and concerned about its own terms of reference. This item appears in the minutes of the May 14 meeting:

"As the work of the interministry committee progresses, it has become apparent that its role is evolving into something more than a co-ordinating committee, and there was some confusion concerning its most appropriate role.

"It was agreed that the primary task of the committee was to develop, as quickly as possible, a provincial position concerning the principle of providing provincial funds for the construction of an access road to the Detour Lake site. If such approval in principle was forthcoming, it would also be necessary to establish where the responsibility lay for items such as source of funds, level of financial commitment, jurisdiction of the road (i.e. design, construction and maintenance implications) route location.

"[Chairman] will prepare a draft Cabinet Submission that raises these issues, for presentation to [Provincial Secretary for Resources Development] in mid-June, and subsequent discussion at CCRD [Cabinet Committee on Resources Development]."

This re-defined role, whatever its range, was given weight and consequence by the fact that the Committee intended to present a submission to Cabinet on the matter, specifically to the Cabinet Committee on Resources Development. This deserves comment.

The Submission to Cabinet

The Cabinet Committee on Resources Development, among its other functions, acts as a "screening process" for submissions to Cabinet that involve resources development matters. A submission is made to the CCRD at the initiative of a ministry or ministries on matters that might involve policy decisions or changes affecting other ministries

in the resource development field; often those policy matters are embodied in a particular project or program. Discussion of such policy matters in the CCRD is an administrative procedure undertaken by the affected ministries, but the subject is also likely to involve the political judgment of the Government. The CCRD provides a route through which to take the issue to Cabinet for its political judgment on the issue. If the submission is approved by the CCRD, it is more likely to be approved by Cabinet, but Cabinet, in any case, has to address the policy matter that is being raised. A project that raises such matters, therefore, has considerable significance for provincial policy.

The Committee presented a draft Cabinet Submission to the Minister of Northern Affairs and the Provincial Secretary for Resources Development on June 10, 1980, with specific recommendations on the Province's role in constructing a road to the Detour Lake mine site. The minutes of the June 4, 1980 Interministerial Committee meeting report that the Committee *"agreed that the recommendations would include:*

1. *The province, through MNA [Ministry of Northern Affairs], negotiate a cost-sharing arrangement with the Joint Venture company.*
2. *Provincial share of funding not covered by other programs should come from MNA Regional Priority Budget.*
3. *The Joint Venture would be responsible for the necessary engineering and environmental studies as eligible cost-shared items, under any agreement signed.*
4. *The company undertake not to seek road access to Quebec.*
5. *Province set up an advisory committee to provide the joint venture with all possible assistance."*

The Committee's draft submission was sent back for revision at the end of the summer of 1980; it required "amplification" of economic benefits accruing to the region and province from the whole development, presumably to be set against costs incurred by the road project. The Province's efforts to encourage the development in the best interests of Ontario carried an obligation to justify the expenditure of provincial dollars.

The last meeting of the Committee before construction of the road was to begin was on May 26, 1981, when the main topic of discussion was the revised Cabinet submission with an "amplification" of economic

benefits to the Province of the development. Added to the original document was an Evaluation that discussed, in more detail than the original, the costs and benefits to the Province of the two aspects of the development. The Evaluation, prepared by the Ministry of Northern Affairs, was found by the Committee to be inadequate. It was decided that the document be revised further so that it could be submitted for consideration to the appropriate government authority.

This was happening at the same time that construction of the road had to begin if the Province were to meet its objective--putting a road to the mine site by the mine's production start-up date. Any economic analysis at this point was likely to be too late to be useful to the decision-makers. The revised economic evaluation was too little and too late to be as effective as it could have, and should have been.

Questions of Planning

In the early autumn of 1980, the Committee began to deal with the practical aspects of the road project--scheduling and details of construction. Construction was scheduled to start in May 1981, and the Committee worked backward from that date in order to initiate the background activities necessary to meet the deadline. But these scheduling activities were proceeding in the face of continued uncertainty about the joint venture's intentions, and without an economic justification of the road project, or an official statement of the Province's position on the matter. According to notes taken by an observer from the Royal Commission on the Northern Environment, it was pointed out at the sixth meeting of the Committee on September 24, 1980, that although *"the present position and operations of the joint venture are not clear...the province must proceed with the necessary background studies before the joint venture renders its decision in order to keep the necessary lead time"*. In fact, Committee members themselves raised questions at the meeting about the economic rationale for the road, and about the *"ad-hoc nature of the road planning process"*.

To further complicate the situation, joint venture officials added a new wrinkle to the proceedings by hinting, at the October 2, 1980 meeting, that they were still considering the idea of a road to Quebec. They pointed out that *"while they need a road, it does not necessarily have to be an Ontario road, in that they could easily link up with Quebec"*. They reiterated this at the end of the meeting, and it was noted that *"since the joint venture will be putting out some \$8-12 million in taxes, they expect some benefits (i.e. road access)"*. Further to that point, the officials noted that the Quebec Government is very active in road building in that area and had made several offers to provide road access to the site. In that case, it was noted, the joint venture could presumably use Ontario labour, but Quebec would become the main supplier, and places like Cochrane and Iroquois Falls would be *"out of the picture in terms of any economic spin-offs from the mine and road"*.

Even as late as the November 25, 1980 meeting, without a commitment to proceed from the joint venture, the Committee was discussing details of scheduling and road construction. It was announced, for example, that the first clearing contracts would be let on December 17, 1980 and January 7, 1981, and a commitment from some agencies of the Government was required for funding these.

The official announcement that the mine development would proceed did not appear until January 21, 1981. The Interministerial Committee held its ninth meeting eight days later on January 29, 1981. At this meeting, three officials of the joint venture (one representative from each company) were present to supply details of the development and to respond to extensive questioning, largely by the Treasury representative, on the economic implications of the mine and road. They resolved any ambiguity about their intentions toward Quebec and Ontario by stating that they were not going to build a road to Quebec, that they were *"quite confident"* of being able to draw much of their workforce from Ontario, and that they were going to acquire electric power from Ontario Hydro which was undertaking a feasibility study on the matter. When asked what the Province could do to help them, the answer was *"a road and a transmission line"*. However, it was still not known--officially--whether the Province would build the road, or whether it would just fund the road, and if so by how much, nor where the funds for the undertaking would be secured.

The actions taken by the Committee to facilitate the development specifically in terms of scheduling and details of road construction, however, led the Committee into areas of responsibility that became impossible to execute. For, in the spring of 1980 it was officially made clear that the proposed road to the mine site--but not the mine itself--was subject to the Environmental Assessment Act. And for much of 1980 and 1981, there was a recurrent inconsistency between the environmental assessment process and other government planning and decision-making procedures.

Often, circumstances that required certain decisions on the road project--decisions which were dependent on the outcome of the environmental assessment process--arose in advance of that process being completed. For example, procedures for planning and scheduling construction of the road were undertaken, in the autumn of 1980, while studies for an environmental assessment of the road project were still being conducted. As well, because the road required an environmental assessment but the mine did not, a piecemeal approach had to be taken to gathering information for a total picture of the development. This information was being prepared, therefore, in separate and partial analyses--the Committee's economic evaluation for Cabinet, and the environmental assessment of the road.

So, in this case, the Interministerial Committee was required to oversee two parallel but separate streams of activity--the mine development and the road project--which were nevertheless integrally

related in nearly every way. And, as the next section shows, the Environmental Assessment Act is meant to ensure that all aspects and possible effects of a proposed development are considered before a decision is made on whether it can proceed.

MEETING GOVERNMENT OBLIGATIONS: THE ENVIRONMENT

Ontario's Environmental Assessment Act

Purpose of the Act

The purpose of the Environmental Assessment Act is stated in Section 2 of the legislation:

"The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment."

In practical terms, the purpose of the Act, according to the Ministry of the Environment, is to establish a planning process in Ontario that takes into account all possible effects on the environment of a proposed project at an early stage in the planning process. The Act is not intended to make natural environmental factors paramount; rather, it is intended to see that they are given fair weight and consideration in the making of decisions. For these reasons, "environment" is broadly defined in the Act; Section 1(c) of the Act specifies "environment" to mean

- "i) air, land or water
- ii) plant and animal life, including man
- iii) the social, economic and cultural conditions that influence the life of man or a community
- iv) any building, structure, machine or other device or thing made by man
- v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
- vi) any part or combination of the foregoing and the interrelationship between any two or more of them

in or of Ontario"

During the 1960's, legislation was introduced across Canada to improve standards for acceptable levels of emissions and effluents, and to try to place responsibility for these kinds of environmental impacts on those who were causing them. This approach focused on the

abatement of existing pollution, and was therefore an "after-the-fact" strategy. It overlooked other cumulative or secondary impacts of certain kinds of development, and it failed to give adequate consideration to possible effects of new development on the human environment. The introduction of environmental assessment legislation in Ontario in 1975 was a response to the need for a preventive planning strategy.

In 1973, in a Green Paper on Environmental Assessment, the Government of Ontario set out the objectives of the Act prior to its passage in the Legislature in 1975. These were:

- "1) To identify and evaluate all potentially significant environmental effects of proposed undertakings at a stage when alternative solutions, including remedial measures and the alternative of not proceeding, are available to decision-makers.
- 2) To ensure that the proponent of an undertaking and governments and agencies required to approve the undertaking give due consideration to the means of avoiding or mitigating any adverse environmental effects prior to granting approval to proceed with an undertaking."

The Deputy Minister of the Environment gave special attention to the same points in 1976 in an address to the 23rd Industrial Waste Conference, an address entitled, "Ontario's Environmental Assessment Act: What It Is and How It's Going to Work":

"I want to emphasize that the Act is intended to bring about a consideration not just of the possible effects of a project on the natural environment--the air, land, water and plant and animal life--but to consider also the effects on man, the man-made environment, and on society, including economic factors. That is why the Environmental Assessment Act is more than a pollution control statute.

"A second point I want to stress is that the Environmental Assessment Act is designed to operate very early in the planning and design process. The reason for this is to ensure that government and public review of potentially significant effects can take place at a time when options are still open. Too often in the past, there has either been no comprehensive evaluation of the implications of available options or this evaluation

has only taken place after a proponent and the public have reached the point of confrontation.

"This is what the Act is trying to accomplish...."

The main objective of the Environmental Assessment Act, essentially, is to improve the process of decision-making. The legislation is broad in scope in order that decision-makers can be provided with information on the entire range of effects that a project might generate. The administrative process established by the Act is designed to ensure that all reasonable alternatives, with their positive and negative consequences, are evaluated by the proponent of a project that is subject to the Act, and that these factors are carefully weighed--perhaps traded off--before a decision is made, both on the best project to propose, and on whether the project is a good one and is to be approved. An environmental planner in the Ministry of the Environment has remarked that the Environmental Assessment Act might be better entitled "The Decision-Making Act".

Design

The key component of the Act is the prohibition clause, Section 5(1), which says that the proponent of an undertaking cannot go ahead with the project until he has submitted an environmental assessment to the Minister of the Environment, and the Minister has first, accepted the environmental assessment, and second, given his approval for the project to proceed. What an environmental assessment document must do is to record the process by which the proponent has gone from the concept stage, through a consideration of alternatives, to the selection of a preferred undertaking for which approval is required. The rule of thumb for data to be included in the environmental assessment document is that the level of detail need only be sufficient to support the kind of decision for which approval is sought.

In the Act's design, as reflected in Figure 4, the process of selecting a preferred undertaking is distinct from, and comes before the preparation of the environmental assessment document. The distinction between the process and the document is explained in the Ministry of the Environment's booklet, General Guidelines for the Preparation of Environmental Assessments, which interprets the legal framework of environmental assessment. It says,

"...In the environmental assessment, the proponent shows that the environmental effects of various alternative courses of action were identified and evaluated, before one of them was selected. This preferred alternative is put forward as the undertaking...It should be emphasized that assessment of environmental effects is not something which should begin after a proponent has decided upon the project with which he wishes to proceed, but

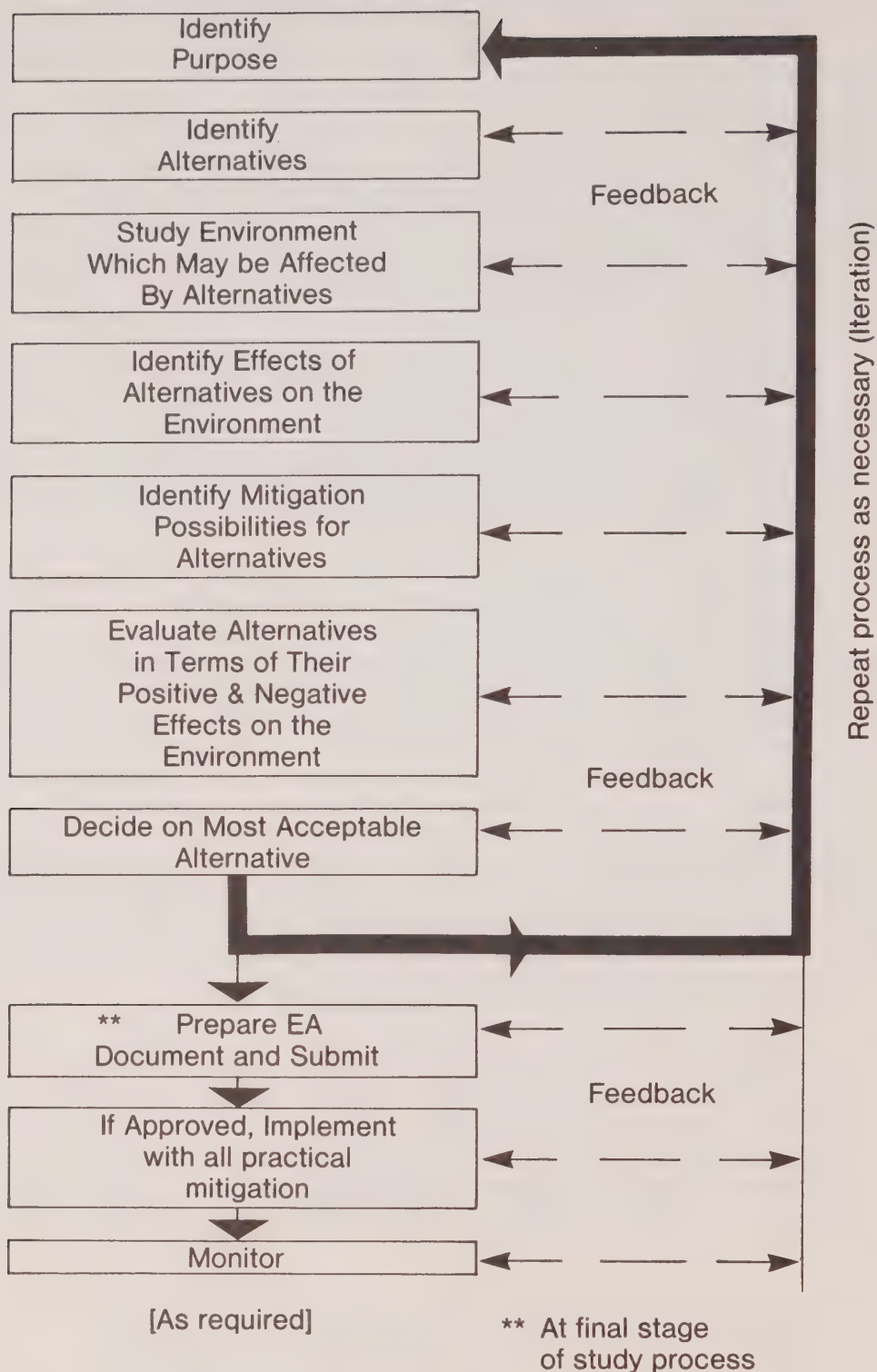


Figure 4: A DIAGRAM OF AN ENVIRONMENTAL PLANNING PROCESS

Source: Ministry of the Environment,
General Guidelines for the Preparation of
 Environmental Assessments, March 1980

rather something which should take place as part of the process of arriving at the project decision."

In other words, as the government review of a particular environmental assessment explained it, the term "environmental assessment" refers to both:

- "- the process carried out by the proponent to determine whether the undertaking or its alternatives should be implemented and in what fashion (this process is the responsibility of the proponent before the assessment is formally submitted to the Minister of the Environment)*
- the document (the EA) that results from the proponent's assessment process and which, fundamentally, justifies why the undertaking should be implemented"*

(From this point, EA will refer to environmental assessment, for example, EA document, and EA Act.)

Administration

The administrative process under the Act begins when the proponent submits an environmental assessment document to the Minister of the Environment for review. The purpose of this review is to verify the completeness and accuracy of the document as prepared by the proponent. The basic criterion here is whether or not the document presents a satisfactory basis on which to make a decision on project approval. Other ministries with an interest in the undertaking or its implications are provided with an opportunity to review the environmental assessment document and make comments and recommendations to the Ministry of the Environment. The review process is co-ordinated by the Environmental Assessment Section of the Ministry's Environmental Approvals Branch, which is the section of the Ministry that administers the EA Act; the Section is also responsible for preparing the official written government review of an EA document. At this stage, the Ministry undertakes, through consultation, to resolve conflicts arising from these ministerial positions, but it cannot impose solutions; resolution will come from the Ministers themselves or from a Cabinet Committee or full Cabinet.

When this review process is completed, a formal public notice is given and the official written government review becomes a public document. From the time of its submission to the Minister of the Environment, the EA document is placed on the public record, and people who are interested in it have a chance to inspect and review the document. The public then has an opportunity to evaluate the government

review of the EA document, and to comment on it. Members of the public may make written submissions to the Minister of the Environment at this stage, including requests for a hearing. This period for public comment is a minimum of thirty days beginning from the time notice of the government review is given.

There are two types of decisions to be made in the environmental assessment review process. First, it must be decided whether to accept the document, or to amend it and accept it. Second, it must be decided whether the project should be approved, approved with conditions, or refused approval. The second decision is dependent on the first; the EA document has to provide an adequate basis for making a decision on the project in question. These decisions can be made in three ways.

If no hearing is requested, the Minister can act by himself in deciding whether the environmental assessment is satisfactory as a basis for a decision to be made. If it is not, he may send it back for changes before he accepts it. Then, the Minister must act with Cabinet concurrence to decide whether to approve the project itself, approve it subject to terms and conditions, or refuse to give approval.

A hearing can be requested by members of the public who have made submissions, by the Minister, or by the proponent. If this is the case, a hearing will be held by the Environmental Assessment Board that covers both stages of the approval process. The Environmental Assessment Board is an administrative tribunal established under the EA Act in April 1976, and is constituted as a decision-making body. As defined in the Act, the Board is to consist of not less than five members; there are currently fifteen members. These members are appointed by the Lieutenant Governor in Council (the Lieutenant Governor is the formal voice of the Executive Council, or Cabinet, of Ontario) for a fixed term of one, two or three years, and they cannot be employed in the public service. Members of the Board must be present throughout a hearing on a particular case in order to participate in a decision on that matter. Hearings of the Board are open to the public unless the nature of the information released requires these sessions to be held *in camera*.

After the Board has made its decision, the Minister of the Environment and the Cabinet have 28 days in which to vary the Board's decision, substitute for it, or require a new hearing. The involvement of Cabinet in the project approval decision recognizes that this decision will often involve trade-offs between legitimate but competing or conflicting objectives of the Government. It is the Cabinet that is ultimately responsible to the Legislature and to the people for determining which values are to be given most weight. If the Cabinet does not exercise this prerogative, the Board's decision becomes final.

A third possibility arises if a hearing is requested after the assessment document has been approved. This is possible in a 15-day period after notice has been given of the acceptance of the EA document; at that time, written submissions may be made requesting a hearing in regard to approval for the project itself. In this case, the hearing would consider only the project, and the EA Board would decide on project approval. The whole administrative procedure is represented in Figure 5.

Opportunities for the public to be formally involved in the decision-making process under the EA Act exist only as described in these administrative procedures. The Ministry of the Environment, however, encourages the proponent to involve the public in the preparation of the environmental assessment. The General Guidelines explains that *"In the Ministry's experience, proponents are usually quick to realize that they will be in a weak position for discussing the social impacts of a proposed project if they have not consulted the people who will be affected."* This informal involvement of the public is not a requirement of the EA Act.

Application

What kinds of projects are subject to the EA Act? As it stands now, according to Section 3 of the Act, every undertaking in the public sector is subject to the Act unless otherwise exempted; undertakings in the private sector are exempted from the Act unless specifically designated by regulation.

The Act allows for the exemption of certain kinds of projects from the EA process. According to the Ministry of the Environment's policy, *"Projects which are likely to be exempted are those with no significant environmental effects; those already in advanced stages of planning and/or development; and those which are of a temporary nature."*

Section 29 of the Act allows exemptions to be granted by order of the Minister of the Environment subject to Cabinet approval. Section 40 provides for exemptions to be made by regulation. The Minister is limited to exempting specific undertakings; the Cabinet has wider powers and can exempt entire "classes" of undertakings.

A number of Exemption Orders, which came into force when the Act was proclaimed, affect specific undertakings of those ministries and government agencies which have not been exempted from the Act by regulation. There are three basic types of orders. The first exempts undertakings that are unlikely to have serious environmental consequences. The second exempts undertakings that are already well underway, so that they can be completed. The third type provides a temporary exemption of certain undertakings so that they can continue to be carried out until an environmental assessment can be submitted; after

BASIC FLOW DIAGRAM OF THE ENVIRONMENTAL ASSESSMENT ACT 1975

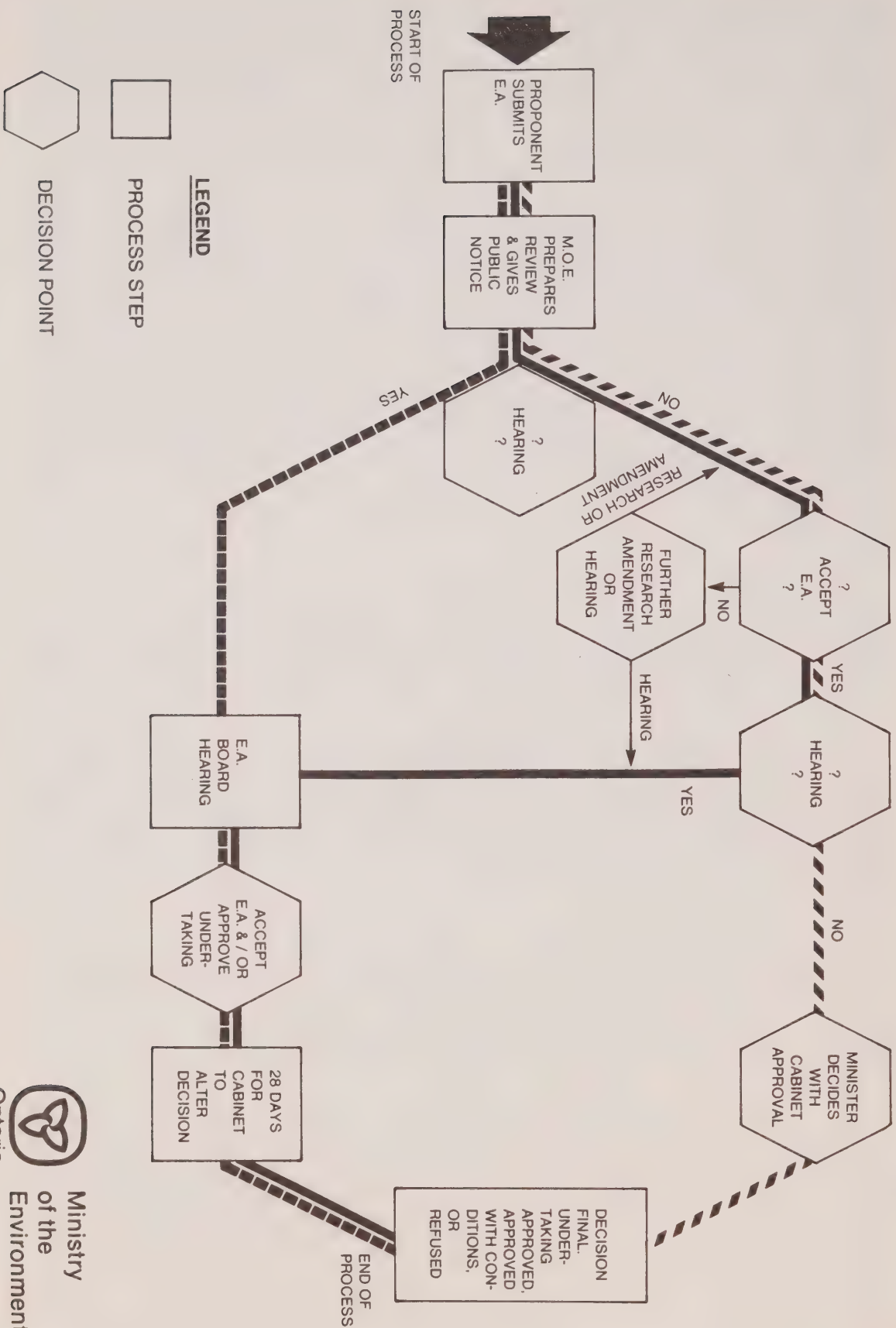


FIGURE 5



Ministry
of the
Environment

that time, they would have to be carried out in accordance with an approval obtained under the EA Act.

Many of the Exemption Orders are subject to various conditions to ensure that the granting of the exemptions is consistent with the purpose of the Act. Many of the exempted undertakings, moreover, have been previously approved under procedures that existed prior to the EA Act coming into force.

Municipalities were originally exempted from the Act by regulation to allow time for discussions with municipal representatives about the types of municipal undertakings that should be subject to the Act or exempted from it. Regulations to apply the Environmental Assessment Act to environmentally significant municipal projects were approved by the Lieutenant Governor in Council and took effect on June 3, 1980.

However, no criteria have been provided for the exemption of projects in either legislation or regulation. No provision is made for notice to or submissions by affected parties regarding the appropriateness of any given exemption, although a cumulative list of exemptions is provided in EA Update, a periodic publication of the Ministry of the Environment.

The "Class Environmental Assessment" is a kind of shortened version of the EA process that can be applied to projects having common characteristics, that is, projects which *"are usually relatively small in scale, are similar in nature, have predictable effects, and occur frequently"*, according to the Ministry of the Environment. This is meant to streamline the EA process in cases where projects *"have a common set of procedures for planning, construction and implementation"*, while maintaining acceptable standards for environmental assessment. An EA document is prepared for the project type and is submitted for review; if this is accepted, then the proponent would receive approval for subsequent undertakings within this program, as long as those projects meet an agreed set of conditions and procedures. According to the Ministry,

"... a Class EA is expected to describe the process through which each of the projects within the Class will be planned and implemented. It is expected to identify the range of characteristics, effects, and alternatives expected and how each of these might be dealt with in the process of planning and implementing an individual project within the Class."

There is, however, a provision for making individual undertakings in a particular class subject to full environmental assessment. As the

Ministry explains, *"It is expected that Class EA's will contain an 'elevating' mechanism, so that an individual EA might be required on a particular project within the class, depending on local conditions."*

Testing the Act

As it is currently constituted in the Environmental Assessment Act, the environmental assessment process in Ontario can be advantageous for provincial decision-making, environmental management, and fulfilling the purpose of the Act. A report done for the Commission points out that, ideally, the following benefits result from Ontario's approach to environmental assessment:

Rather than concentrating on narrow, issue-specific evaluation, it encourages a holistic view that takes into account the entire complex of social, economic and physical environmental effects (of a project), including secondary, off-site and cumulative effects.

Rather than concentrating on abatement of existing pollution, it emphasizes prevention through better planning.

It promotes a more realistic assessment of total costs involved in a project, with an understanding of who pays the indirect costs.

It gives the public an opportunity to become involved at an early stage in the decision-making process, rather than after important commitments have been made.

It permits the trade-offs that inevitably take place to be identified and dealt with openly.*

*from The Legal and Administrative Basis of Land Use and Environmental Decision-Making North of Latitude 50° - A Guidebook and Selected Observations, Canadian Environmental Law Association, March 1980.

Nevertheless, there are still some problems, conflicts and ambiguities to be resolved in the EA process, some inherent, some procedural. *"Environment legislation should be streamlined, former minister warns,"* said a recent headline in a Toronto newspaper, and went on to report, *"Unless Ontario streamlines the Environmental Assessment Act, the legislation will be avoided and finally destroyed ...[a] former Cabinet minister warned."* Mr. Robert Macaulay was speaking at a conference outlining the EA Act. The article continued,

"The act, which was passed in 1975, was described by Mr. Macaulay as probably the best in the world, but he warned that if the procedures for getting projects through hearing stages are not made more

efficient, 'governments and agencies will try to get out from under it'." (The Globe and Mail, March 27, 1981)

This is one opinion on one of the problems associated with the environmental assessment process and the EA Act. The legislation, in fact, has been referred to wryly as the "Environmental Exemption Act". These difficulties were not unforeseen by the Act's designers and administrators. In June 1976, in his address to the 23rd Industrial Waste Conference, Ontario's Deputy Minister of the Environment had this to say about the then new Act:

"We are committed to making the Environmental Assessment process a useful and workable planning tool. I would be foolhardy to suggest and naive to believe that it will be possible to implement such significant legislation as the Environmental Assessment Act without any snags or hitches. But we plan to sort out these problems and make adjustments and changes--even legislative amendments--as they become necessary.

"So what you can expect from the Ministry of the Environment is a reasonable, practical, and pragmatic approach to implementing environmental assessment in this province...."

The success of the EA process depends to a large extent on the way procedures are carried out, the way responsibilities are fulfilled, and the general level of understanding and commitment of the parties involved. What needs to be addressed now, over five years after the legislation was introduced, is how well the process works. The road to Detour Lake is a case in point.

The Access Road and the Environmental Assessment Act

The Exemption Controversy

The relevance of the Environmental Assessment Act to the road project was an issue that was unresolved for several months at Inter-ministerial Committee meetings in early 1980. Because Ontario's role in providing road access to the mine site was uncertain, there was some question over whether the Act could or had to be applied to the road as a government-sponsored project. Without knowing whether or to what extent Ontario was going to build the road, it was argued, no one could assign or assume responsibility for environmental assessment. The Interministerial Committee consistently tried to avoid the application of the EA Act to the road. The Ministry of the Environment was equally determined in insisting that the road was subject to the EA Act if the Government was going to have anything to do with it. What follows is a series of excerpts from the minutes of the Interministerial Committee meetings which indicate these difficulties and which show how the final status of the road under the Environmental Assessment Act evolved.

This excerpt from the minutes of the second meeting of the Inter-ministerial Committee, March 25, 1980, indicates that Committee members recognized the problem presented by opposing but legitimate interests:

"This item generated some considerable discussion, and it was recognized that this project typified the dilemma of quick action for economic development purposes appearing to suffer because of the necessary environmental safeguards." (emphasis added)

This presents the development-environment issue as a black-and-white distinction, however: the "either - or" alternatives of dispensing with EA Act requirements altogether as opposed to "sacrificing" development to the presumed lengthy process of ensuring "the necessary environmental safeguards". This approach fails to consider the possibility of a balance between these two legitimate concerns: an effective and timely environmental assessment for the purpose of ensuring that any development proceeds under the best possible conditions for the whole environment. That is what the EA Act is supposed to do.

The Committee was in general agreement about its own position on the matter. Although the Committee acknowledged the dilemma presented by the case, *"The predominant view was that the Committee should seek an exemption from the EA requirements"*. In view of the widespread ministerial and public support for the development, and tight scheduling required by the project, it is understandable that Committee members were wary of any delay that might be caused by environmental assessment procedures. The EA Act requirements are often

regarded with suspicion because of the time and effort needed to meet them, and the bureaucratic complications resulting from the involvement of several ministries. One of the Committee members expressed the opinion that the Act has a poor reputation because it is seen to delay progress too much. And the Committee's main responsibility, after all, was to facilitate the development in Ontario's best interests. The ensuing difficulties over the issue of exemption, however, bore little relation to either the purpose of the Act or the availability of resources to comply with the Act.

Other, more specific problems arose in the issue of exempting this road from the EA Act, the main one being the ambiguity surrounding the Province's role in funding or building the road. At the next meeting of the Interministerial Committee on April 17, 1980, *"a number of possible arrangements were discussed with respect to the funding and construction of the road"*. The minutes report,

"There was considerable discussion concerning the application of the E.A. Act under the various funding/construction/ownership options outlined ... [Ministry of the Environment representative] will present a written position from M.O.E. on this matter by next meeting."

The options for provincial involvement in the road project included total responsibility for the road, some measure of financial contribution, and no responsibility if the joint venture built and paid for the road. In these circumstances, it was difficult to determine if the project was going to be government-sponsored and thus subject to the EA Act, or even take place at all, much less assign responsibility for an environmental assessment. Here the argument turned from being a question of exemption versus development to one of how to determine the applicability of the Act in this case.

It appears that the Committee was prepared to consider several options on the matter. At the second meeting, members heard a report of the Northern Ontario Resources Transportation Committee meeting on the day before, March 24, 1980. The Interministerial Committee minutes say,

"Following discussion, it was agreed that it would be unlikely for NORT to be an appropriate funding program for road access...It was noted, however, that NORT could serve a useful role in getting some quick progress (i.e. clearing) if time became short."

Roads are provided through the NORT program--usually roads much shorter than the proposed Detour Lake road--under a special exemption

agreement between the Ministry of Natural Resources and the Ministry of the Environment that waives full environmental assessment requirements. The exemption pertains to short-distance local access roads, winter roads, and snowmobile access routes. The exemption is valid under two conditions: a) that a list of all projects falling in these categories is provided to the Ministry of the Environment every 6 months; b) that at least 30 days before the start of such a project, an Environmental Status Statement is provided by the proponent to the Ministry of the Environment. The Ministry retains the right to change the status of the project to one that is subject to a full environmental assessment if deemed necessary on the basis of the Environmental Status Statement.

Exemption from the Environmental Assessment Act was not a new idea in relation to the Detour Lake access road. At the first informal Interministerial Committee meeting on July 6, 1979, the following questions were raised on the subject of environmental assessment, according to a Ministry of the Environment representative's notes:

"If a road to Ontario is funded at least in part by provincial monies will it, therefore, be required to go under the Environmental Assessment Act and if so, what would be the criteria for seeking an exemption?"

"If the funding is under the NORT scheme, will it be required to go under The Environmental Assessment Act?"

"Could such a road be included under the general exemption which the Ministry of Natural Resources has from The Environmental Assessment Act?"

The Committee's preference, as discussions progressed, and as the minutes indicate, was to have the road exempted from environmental assessment requirements. And their reason for taking this position was to save time, for an environmental assessment adds many months to the time before a development can proceed. The objectives of the Committee--to expedite the development--and of the environmental assessment process--to consider all the factors relevant to a proposed development--were different, and this opposition led to several problems throughout the time the issue was under consideration.

The issue of exemption from the Environmental Assessment Act goes deeper than this, however. At this point, only government-sponsored projects are subject to the EA Act, and as of June 1980, "environmentally significant" municipal undertakings. Private developments are exempt unless specifically designated by the Minister of the Environment to comply with the Act. The Detour Lake mine has not been so designated.

If the issue of a need for an environmental assessment comes into play at all, then it is difficult to consider the environmental or socio-economic effects of one part of the development as distinct from those of the other part. It is known that the Ministry of the Environment intends to "phase in" the applicability of the Act to private undertakings some time in the future, when the EA process is functioning more smoothly. What the Detour Lake road case indicates is that attempts to enforce the applicability of the Act to government projects, as is currently required, is difficult enough.

In the meantime, what is logical for fulfilling the purpose of the Act--looking at all aspects of a development--cannot be realized because of certain administrative features of the EA process: in general, not applying the Act to private undertakings; and in particular, not designating certain private undertakings, like the Detour Lake mine, as being subject to the Act. The distinction in the Act's application between public and private undertakings appears to reinforce the provincial policy of facilitating resource developments, and it underscores and justifies the Committee's own position on the matter. This distinction affected the evolution and outcome of the environmental assessment process in the case of the Detour Lake access road.

Problems of Application

By the fourth meeting of the Interministerial Committee, the status of the road in relation to the EA Act could no longer be disputed. MOE's position was clearly stated at the May 14, 1980 meeting: *"that the Environmental Assessment Act would apply to the construction of a road to the Detour Lake site, regardless of the level of Provincial involvement in the undertaking"*. This position was established by a memorandum sent by the Deputy Minister of the Environment to the Deputy Minister of Northern Affairs on May 13, 1980. It says in part, after a discussion of environmental studies over several years on the Detour Lake site,

"In view of the...long history of environmental studies, I am rather surprised that questions on the applicability of the Act are being raised by members of your staff at this late stage. This should also be viewed in light of the recent assurances from Cabinet about this Government's commitment to the immediate implementation of The Environmental Assessment Act."

"Given the involvement of the Crown in the provisions for the access road, the access road is subject to the Act. When one considers the potential environmental impact of over 100 km. of a road, the history of available studies and the planning implication of trying to tie this road to either present and/or future developments in the area, we

see no reason to consider an exemption of this road from the Act."

The exemption controversy was resolved to this extent in terms of law, but not, it seems, in terms of attitudes. Discussions at subsequent Interministerial Committee meetings reflected two contrary directions. The Committee made plans to comply with this order, but at the same time foresaw some difficulties with it in terms of its implications for development. At the May 14, 1980 meeting, the Committee discussed details of preparing guidelines and acquiring information for an assessment. About timing, the minutes say,

"In order to clarify the timing of activities required to complete the construction of a road by the end of 1982, a tentative flow chart was developed. In order to meet the dates, it would be necessary to have received all the necessary environmental approvals before the start of the 1981 construction season [May 1981]. [Ministry of the Environment] indicated that if work commenced immediately on the preparation of the document, there would be ample time to meet this deadline."

The time available for preparing an environmental assessment and gaining approval for the project--a year--appears to have been reasonable if all went well and if work began at once. The project itself was specific and straightforward: the construction of a road from the Cochrane area to a certain mine site. As well, a considerable amount of environmental investigation had already been done in that particular area. The Deputy Minister of the Environment in his memorandum of May 13, 1980, seems to advocate using that information to speed up the EA process when he says,

"It is our understanding that between the Environmental Applications Group Ltd. studies and the Ontario Government (MNR, MTC, MNA, MOE) [Ministry of Natural Resources, Ministry of Transportation and Communications, Ministry of Northern Affairs, Ministry of the Environment] much of the needed information for completing an environmental assessment is readily available. Keeping this in mind...it has been estimated that an environmental assessment on the road could be produced within about a four month period."

What actually happened, however, led to unnecessary complications.

Although timing was not expected to cause problems with the assessment, there were misgivings about the implications of the Act's

application to this road. The minutes of the Committee meeting on June 4, 1980, reflect signs of members' concern about the Ministry of the Environment's position in this case, as specified in the Deputy Minister's letter:

"Considerable attention revolved around the position taken by MOE [Ministry of the Environment] in the May 13 memo...with respect to the statement that 'Given the involvement of the Crown in provisions for the access road, the access road is subject to the Act'.

"Among the concerns registered was the implication of blanket application of the E.A. Act to MNR [Ministry of Natural Resources] access roads, private access roads on Crown Land and roads built under assistance from N.O.R.T.; and the question of responsibility for initiating E.A. in projects where there is no clear proponent (e.g. Detour Lake).

"[Committee member] pointed out that MNR and MOE had reached an agreement (in draft) with respect to E.A. for private roads built on Crown Land. Such roads would not be subject to E.A. Act if MOE were satisfied that the private proponent had conducted adequate environmental studies."

Despite these concerns over the applicability of the Act to various kinds of projects, the Committee "...recognized that these issues would not be resolved by this committee, but will become items for negotiation between MOE and the individual affected ministries". "In the specific case of Detour Lake," the minutes say, "it was agreed that the environmental studies would have to be completed in any event, regardless of the final process of EA approval."

The Proponency Issue

The Committee's concern over "the question of responsibility for initiating E.A. in projects where there is no clear proponent (e.g. Detour Lake)" contributed to one of the major problems in the EA procedures in this case. After the question of exemption had been settled, the sticky issue of who was to be the proponent for the road remained unresolved for several more months. Briefly, no one wanted to take on the responsibility. The Ministry of the Environment, however, is unwilling to accept "the Government" as a proponent. At this point, then, the road was deemed to be a government-sponsored project, but no arm of the Government was willing to sponsor it.

But because the proposed road was subject to the EA Act, an environmental assessment was required. The Committee's next step was to

establish what was to be done and how. First, guidelines for the assessment were to be prepared by the Ministry of the Environment, as the minutes of the May 14, 1980 meeting indicate:

"It was agreed that [Ministry of the Environment] would draft a set of guidelines which would outline the type and level of detail which would be required by the Ministry for an EA on this project. These guidelines would be discussed with appropriate representatives for MTC...[Ministry of Transportation and Communications] and MNR [Ministry of Natural Resources]...and presented at the next committee meeting."

This is not a requirement of the Act, and MOE has a standard document available on the subject: General Guidelines for the Preparation of Environmental Assessments. The Act itself, moreover, outlines in general terms the required components of an environmental assessment. It has been a practice of MOE's Environmental Assessment Section, in discharging its responsibility for administering the Act, to provide specific guidelines to address the particular circumstances of certain proposed projects.

As for acquiring the information for an assessment--environmental, social and economic data--the Committee had a ready and obvious solution. The May 14, 1980 minutes report,

"As Amoco/Dome has had a consultant working on the environmental aspects of the project for some time, it was felt that much of the required information would already be available. [Chairman] will approach Company officials to discuss the most appropriate method of capturing all the available information in an environmental assessment type document."

By the time of the next meeting on June 4, 1980, the minutes say,

"[Chairman] reported that he had held discussions with joint venture officials who have recently engaged Environmental Applications Ltd. ([consultant]) to complete the available social and economic environmental information. When the guidelines from MOE are available, [consultant] will use them as a framework for his study...."

Whose study? At this point there was no proponent for the road, nor was it established that this consultant was to be engaged to do the

environmental assessment for the Detour Lake road. After noting that when the guidelines are available from the Ministry of the Environment the consultant will "use them as a framework for his study", the Committee went on to suggest that *"This would hopefully resolve the E.A. jurisdiction to the satisfaction of all parties."* Instead of resolving the proponency question, or "E.A. jurisdiction", however, this approach simply avoids the question.

So, no one was the proponent for a road which may or may not be built, but required an environmental assessment as a government-sponsored project for which a level of government involvement was not yet clearly established. Time, or the lack of it, eventually solved the problem of proponency. Over the summer of 1980 it became clear that someone had to be ready to build a road, or provide funds for it, if the road was to be in place by the required time. Although it was still not certain that the mine development would proceed, and if it did whether the Province or the joint venture would build the road, the Province had to be ready to go ahead--either to contribute funds or to build the road. And the road was clearly subject to the EA Act. Therefore, a provincial proponent had to be established for the purpose of undertaking an environmental assessment in the allotted time. This responsibility fell to the Ministry of Transportation and Communications--early in August 1980.

These circumstances bring a new dimension of government involvement into the proceedings surrounding the Detour Lake development. An examination of the ways in which government responsibilities were carried out in this case allows problems to be identified in the interpretation of the Act's function and purpose, in the administrative procedures that carried the process along, and in the implementation of the process through the preparation of an environmental assessment document. Identifying problems, in turn, provides an opportunity for developing solutions to those problems and improved procedures could help ensure that decisions are made through the environmental assessment process in complete conformity with the purpose of the Environmental Assessment Act.

THE ENVIRONMENTAL ASSESSMENT PROCESS: FULFILLING GOVERNMENT RESPONSIBILITIES

Ministry of the Environment: Guidelines for an Assessment

Introductory Problems

On May 14, 1980, when the Ministry of the Environment's position on the Detour Lake road was made clear--that it would be subject to the EA Act--the representative from the Ministry's Environmental Assessment Section agreed at the Interministerial Committee meeting to draft a set of guidelines for the road assessment by the time of the next meeting which was on June 4, 1980; this was not done. The guidelines were completed four months after the May 14 meeting, in early September 1980.

A Section official explained that for several months before the guidelines were completed, discussions were held with the consultant who would be doing the study to establish the appropriate parameters for the study. The consultant says the same in the EA document: *"Discussions with the Ministry of the Environment detailed the project scope and later led to the preparation of Guidelines for the Preparation of the Environmental Assessment which were received on September 12, 1980."* The consultant, however, was not officially engaged to do the study until early August 1980, although he was unofficially consulted on the matter over the summer of 1980.

The guidelines, when finally produced, consisted of two pages of broad headings, as follows:

"DETOUR LAKE GOLD MINE ACCESS ROAD E.A., MOE GUIDELINE-DRAFT

The following guidelines point out areas to be addressed in the preparation of the EA for access to the Detour Lake Gold Mine. Due to the special circumstances of this project, the detail and depth of information will be treated in accordance with its remoteness and potential environmental implications. The level of details will be established during the course of the study through discussions among the interested parties.

Background

Description and evaluation of the mine and its implications: location, remoteness, need (market, employment), timing, economic benefits.

Project description:

Structures description of facilities, mode of operation, on site services, number of employees, their expected origin, expected life span of project.

Transportation Options

Air access vs Road (winter and year round), Rail transport.

Road options

From Quebec or Ontario (Cochrane vs others)

Consideration of administrative and residential headquarters: at site, Cochrane, Quebec, others.

In considering Cochrane as a potential "homebase", the following should be assessed: availability of housing and other municipal services;

The potential impact on the community by the increase in population: economic, social. What is the potential of new employees spillover to other communities.

Access Road Assessment

Items to be used as criteria for an acceptable alignment:

- Distance,
- Existing roads,
- Geology - good foundation, availability of gravell material
- Environmentally sensitive areas; habitat (fish, wildlife, etc)
- Land use considerations: native claims, agriculture, wilderness areas, recreation, mining, commercial fishing, timber and others.
- Visual constraints (near parks, residential areas, camping)
- Historic & archaeological areas
- Water quality, river crossings
- Air quality & noise.

Future Considerations

- Other potential mines and industries in the area
- Road to Moosonee
- Relations to Onakawana
- Other.

Project implementation

- Final design
- Identification of expected impacts
- Proposed mitigation
- Proposed rehabilitation
- Future ownership
- Maintenance (use of salts & its potential impact)"

The first point to be made about these guidelines is that they are vague. Perhaps this is because further refinements were intended to be made at later stages. But, since "the level of details [was to be] established during the course of the study through discussions among the interested parties", it is surprising that it took four

months to complete the guidelines in this form. Although a proponent for the project was not determined until early August 1980, it is difficult to excuse a delay as lengthy as this on the Ministry of the Environment's part, especially as the Ministry knew of the tight scheduling requirements for the road project. In any case, when the Ministry of the Environment insisted that the road was subject to the EA Act, the Ministry also assured the Interministerial Committee that an environmental assessment could be prepared in the time allotted. Indeed, "timing requirements" were among the "special circumstances" of this project, according to an Environmental Assessment Section official.

The official cited the "special circumstances" mentioned in the introduction to the guidelines as being, in addition to "timing requirements", the high incidence of muskeg in the area, the absence of people in the area, and the proximity and partial coincidence of the area to the Abitibi-Price cutting contract limits. These were not specified in the guidelines, however. To mention special circumstances like this without making clear their significance to the assessment creates an unjustified ambiguity. It could mean that these circumstances can justify a relaxation in the standards for either the guidelines themselves or the assessment being undertaken. Or it could mean that special standards have to be applied. In any case, this is not made clear. It could be argued that every development is necessarily a special circumstance because it is unlike any other in every detail. But if those circumstances deserve mention at all, then why did the guidelines not address the ways that those circumstances could be accommodated in fulfillment of the requirements of an environmental assessment?

There are other serious problems with the introductory comments, and they can in no way stand as a justification for the vagueness of the guidelines. To say, for example, that "the detail and depth of information will be treated in accordance with its [the project's] remoteness and potential environmental implications" is to say virtually nothing. Who is "treating" detail and depth of information--the guidelines or the assessment? To treat information "in accordance with its [the project's] remoteness" could mean gathering a lot of original research data for an area largely unexplored, or not bothering with much detail because the place is isolated anyway. And any environmental assessment has to "treat" information in accordance with any project's "potential environmental implications". Instead of qualifying or clarifying the points to follow, the introduction adds confusion to the way they are to be interpreted.

Specific Problems

It may be argued that the Detour Lake development--mine and road--is itself a special circumstance in relation to the EA Act because the road requires an environmental assessment but the mine is not designated as being subject to the EA Act. Perhaps because of this, the guidelines for this assessment ask for a considerable amount of

information on the mine itself and about what impacts it will have. The Ministry of the Environment may be attempting to incorporate these important considerations into an assessment for the road; ultimately, of course, the nature of the mining operations affects the use and standard of the road. In any case, placing the assessment in a fuzzy context like this makes the preparation of the assessment unduly awkward. No explanation is given for why this information is required, or how it is meant to relate to the road assessment.

A similar ambiguity appears in a section of the guidelines entitled "Future Considerations" which asks for information on

*"Other potential mines and industries in the area
Road to Moosonee
Relations to Onakawana
Other."*

First, the reason for including these points is never revealed. No indication is given of why a road to Moosonee, for example, should be related to a road to Detour Lake. It could be assumed that such things as "potential mines and industries in the area" (but what "area"?) would be relevant insofar as the Detour Lake road might provide initial access to other isolated sites that could be developed; this is not clarified, however.

In short, it is not made clear in the guidelines what the assessment is supposed to assess. Is it road access to the Detour Lake mine, or road access to Northeastern Ontario? It is to be assumed that the assessment is of the Detour Lake access road, with a consideration of the possibility of other roads linking up with it in the future. The guidelines, however, do not make clear which consideration is to be addressed under each of the headings. The section on "future considerations" suggests other roads; the section on "access road assessment" suggests the Detour Lake road; the heading "road options" could conceivably relate to either case; and the section relating to the mine could stand on its own (how does this fit in with all the possible road route options being addressed?). The Environmental Assessment Report itself reflects this confusion, as a later discussion on the document shows.

In order to provide information on regional considerations, the consulting company would be required to study the entire northeast region. The consultants' study area, for the purpose of biophysical and land use studies, goes north only to Kesagami Lake and west to the Ontario Northland Railway line, and is bounded on the east by the Quebec border and on the south by the southern limits of the Cochrane Census District. Perhaps it was assumed that the consultants were familiar with the whole area in view of their long association with environmental studies there; if they were not, and there certainly was

little time to collect original data, then the quality of information given on these topics would necessarily be affected.

In general, the effectiveness and applicability of these guidelines are questionable. The guidelines fail to set the objectives of the exercise. They provide no terms of reference beyond a list of headings. They do not indicate what kind of analysis is required. They start with qualifications that are difficult to decipher. They create confusion by not stipulating the relation between topics. Ultimately, they raise more questions than they answer.

Practical Considerations

This leads to a fundamental question about guidelines for an environmental assessment: what guidelines should be able to provide. Certainly, guidelines can take many forms, with varying degrees of explicitness. Should they present only a general orientation to the issues needing illustration and analysis? Or should guidelines provide explicit directives concerning topics to be addressed, analytical procedures to be followed, or a combination of these? What the Detour Lake case demonstrated is that criteria for an assessment could most usefully apply to both information and analysis.

It may be that the Ministry of the Environment expected that the General Guidelines for the Preparation of Environmental Assessments would be understood to apply to this specific case, and therefore just provided a list of topics to be addressed in the manner suggested by the General Guidelines. If this is so, it is nowhere indicated in the guidelines for the Detour Lake road assessment. If this is indeed a special case, then it could be expected that specific guidelines would also be provided, to show how to relate the particular circumstances of the case to the purpose and procedures of environmental assessment as outlined in the General Guidelines. This is not done.

The General Guidelines states in the Introduction,

"The Guidelines should not be regarded as a model to be followed implicitly step-by-step. The Guidelines deliberately avoid the 'cookbook' or 'checklist' approach, to allow the proponent to have maximum flexibility, while at the same time meeting the requirements of the Act."

The proponent certainly had "maximum flexibility" in preparing the environmental assessment for the Detour Lake road. The question that can be asked, however, is whether he had an adequate framework, in this particular case, to be able to meet the requirements of the EA Act.

Although it could be argued that the framework for environmental assessments is contained in the Ministry's General Guidelines document, it is important nevertheless to marry a general framework for an assessment to the specific, itemized points relating to a particular case, in order for the guidelines as a whole to function effectively. An operational framework of this nature could provide a kind of analytical context for the specific items or topics needing to be addressed in the assessment.

The list of topics that constituted the guidelines for the Detour Lake road is a striking example of the absence of such a framework. It is difficult to deduce any kind of cohesion in the categories presented or in their relation to each other, except superficially. What bearing all these have on the project under consideration--the road--is left to the imagination. There is little, if any, evidence in the guidelines of a controlling concept which would shape the final product. In other words, there is little guidance for determining what the assessment is supposed to show, prove, explain, relate, evaluate--in this particular case.

Guidelines such as those for the Detour Lake road are of little help to anyone, neither the proponent nor the Ministry of the Environment. If guidelines for an assessment enabled the proponent to know exactly what he is supposed to show, analyze and prove, then perhaps the EA process could be advanced more effectively. The Ministry's Environmental Assessment Section personnel cannot be expected to have a fine understanding of the diverse nature of all the projects subject to the EA Act; disciplinary specialization is a modern fact and necessity. They have to rely on various kinds of expertise from government ministries, consultants or the proponent. The proponent, on the other hand, has more knowledge and understanding of the project than anyone else, but likely not of the assessment process, and he therefore needs to rely on expertise of another sort in order to fulfill his responsibility for conducting a successful environmental assessment.

If the proponent is left to determine what is adequate in an environmental assessment, then problems can arise. And of course, adequacy can refer to many things: level of detail, analytical parameters, logical consistency and the integrity of the deductive argument. Level of detail is the least problematic, perhaps, for the accepted rule is that the level of detail in an environmental assessment need only be sufficient to support the kind of decision for which approval is requested. If criteria for adequacy in regard to the other factors are not specified, then there is a greater chance that the environmental assessment will not proceed in accordance with the requirements of the EA Act.

A similar problem arises at the evaluation stage, during the government review process. Unless criteria for evaluation are established at the outset of the EA process, either within the Ministry or as part of the guidelines, then the government evaluation of the EA

document may proceed in an arbitrary fashion. The government reviewers of the Detour Lake document, for example, essentially set their own criteria for evaluating the document, for they were simply asked to respond to the following question on the document: *"Is the information in the document sufficient to allow a decision to be made on the proposed undertaking?"*

- e.g. - Is the specific data sufficient and accurate?*
- Is the analysis adequate?
- Has the proponent explained the decision process leading to the proposal of the undertaking in sufficient detail?"

These points are merely ones of general orientation. It can be expected that the government reviewers would assess the document specifically in terms of their own areas of line responsibility. But apart from that, they are being asked in reviewing the document to operationalize these points of general orientation into specific criteria. And they are required to do this after the fact, after the assessment has been completed. This procedure is neither efficient nor fair to proponent and reviewer alike.

Ultimately, of course, establishing specific, operational criteria for an assessment at the beginning of the process would serve the most important end of all: the purpose of the EA Act. The EA process is meant to ensure that a comparative evaluation is made of all factors relevant to a proposed undertaking and its surrounding "environment" in order to arrive at the most expeditious and least harmful uses of the environment. Clear, specific and truly instructive guidelines for an assessment could be a means of directing the EA process to ensure that its purpose is fulfilled in each case. The environmental assessment for the Detour Lake road, as later sections of this report will show, is an arresting example of what can happen when this is not done.

Preparation of the Environmental Assessment

Timing, Information and Roles

On August 11, 1980, a Memorandum of Agreement was signed by the Ministry of Transportation and Communications and the Environmental Applications Group Ltd., a consulting firm specializing in biophysical research. EAG Ltd. was to conduct an environmental assessment of the road undertaking, and to prepare an EA document as required by the EA Act. MTC was to submit this document to the Ministry of the Environment by January 1, 1981. The consulting firm had less than four months to do a task that MTC sources estimate normally requires up to two years. It is questionable whether an environmental assessment for over 100 km of road, through a remote area of difficult terrain, can be done in four months.

This severe time limitation can be seen as the result of earlier circumstances. The consulting firm could not be engaged until the question of proponency was resolved. Even if work had begun at the time that the project's status under the Act was established, May 1980, timing problems would have been eased somewhat--except for the fact that guidelines for the assessment were not prepared until four months after that. So, the time available for doing the environmental assessment could have been extended and made more productive if certain responsibilities had been fulfilled on a timely basis.

One of the attractions of engaging this consulting company was that it had been doing environmental studies in Northeastern Ontario for several years before this time, and for a variety of government and private agencies. The company was presumably familiar with the physical environment in that part of Ontario and had already collected a considerable amount of information. In a letter to the Commission on January 19, 1981, the president of EAG Ltd. said, *"We commenced working on the project late in 1975, and have assisted the company since that time in evaluating environmental concerns relating to the development."* The project to which the president refers is the proposed mine development; the company is Amoco Canada Ltd., and later the "Detour Lake Joint Venture", which engaged EAG Ltd. to conduct environmental investigations of the proposed mine site. Although the consulting company's familiarity with the terrain in that part of Ontario might have eased the problem of time constraints, the Government's engagement of the company for the road's environmental assessment--while EAG Ltd. was also engaged by the developers--may have introduced another kind of problem into the preparation of the EA for the road: failure to ensure that the preparation of an environmental assessment be seen to be done objectively.

Although limited time was undoubtedly the major source of difficulties in the preparation of this assessment, the roles adopted by various actors give rise to more fundamental problems in preparing environmental assessments, whether time is short or not. The exact nature of the consulting company's work and responsibilities, and its

relationship to the proponent cannot be determined in this case without documentation. The only evidence available of the division of responsibilities is the following quotation from the Introduction to the EA Report:

"As proponent of the project, the Ministry of Transportation and Communications have maintained a major role in the study being responsible to the requirements for, evaluation of and selection of the preferred alternative. The Environmental Applications Group Limited were contracted to complete an evaluation of the existing baseline environmental conditions and to evaluate the impacts of the preferred alternative on the immediate vicinity and on the region generally."

The consultants gathered information informally from members of the public and from government sources, and they met with members of the public, both individuals and groups, regarding the road alignment. These contacts can be seen as a way of gauging the most environmentally sound and socially acceptable alignment for the road. But to what extent should consultants be involved in this kind of work? What was the role of the Ministry of Transportation and Communications, especially towards the public, in the assessment preparation? There is some evidence that queries and problems addressed to MTC were referred to the consultants, who then met with the affected groups or individuals. At the very least, this ambiguity about roles clouds the relationship enough to cause some confusion for intervenors and government agencies: to whom do they address their concerns? More serious is the possibility that the consultants took over responsibilities that are properly those of the government-proponent.

Given the limitations related to timing, information collection and role definition identified in this case, it can be questioned whether the assessment could be done well, or even well enough.

Consultation with Government Ministries

The Ministry of Natural Resources played an important part in the preliminary stages of the assessment preparation, as the lead ministry in early discussions with Amoco about developing the mine site, and as one of the major government actors in the road project. As well, MNR was able to provide a considerable amount of the information required for the environmental assessment.

As noted, the Ministry's Northern Region prepared a preliminary investigation of several options for the road, called the first Inter-ministerial Committee meeting on the proposed road project, and was involved in all subsequent formal Interministerial Committee meetings. On July 31, 1980, the Ministry of Natural Resources, the Ministry of

Transportation and Communications and Abitibi-Price met in Cochrane *"to discuss, in general terms, the road location"*. Following this meeting, according to a report by the Ministry of Natural Resources' Cochrane District, Cochrane personnel *"spent some time analyzing the route and produced a nine-page report setting out concerns which would assist MTC in specific route selection"*. The report was presented to the Ministry of Transportation and Communications in October 1980. This resulted in *"several meetings with MTC consultants and the project head of surveys, and project engineer, as well as an exchange of correspondence with Regional Director in North Bay"*. In mid-November 1980, MTC's Project Manager wrote a detailed response to those concerns in a letter to MNR's District Manager, beginning with the point that *"the concerns expressed by M.N.R. at our meeting will be addressed in the Environmental Report"*.

A meeting was held on October 7, 1980 between the consultant and officials of the Ministry of Natural Resources' Cochrane District office, as well as a representative of MNR's Regional Office, to consider these concerns. Even at this meeting, the tight scheduling requirements for the study were acknowledged as being a problem in preparing an adequate environmental assessment. It appears that the Ministry of Transportation and Communications, as the proponent, was doing the best that it could under the circumstances. Further questions are raised by other events, however.

The only meeting held for government representatives of a range of ministries before the EA document was completed was on December 15, 1980, in Cochrane, Ontario. A presentation was made by the president of the consulting company who gave extensive explanations of his environmental and socio-economic findings, and answered questions on these data. Ministry of Transportation and Communications representatives fielded some questions later in the informal part of the meeting.

Present at the meeting was a group of 25 representatives from the following ministries:

- Environment
- Natural Resources
- Industry and Tourism
- Transportation and Communications
- Northern Affairs
- Housing

There were no officials from the Resources Development Secretariat, Ministry of Culture and Recreation, Ministry of Treasury and Economics or Northern Ontario Resources Transportation Committee at the meeting. All quotations from this meeting presented here are according to shorthand notes taken by a representative of the Royal Commission on the Northern Environment.

Presumably, this meeting with government representatives was held to allow for contributions to the body of information that had been

collected up to that point, and to resolve any grievances or concerns that some ministries might have about the proposed alignment. As an official of the Ministry of Transportation and Communications stated to the assembled group:

"The reason we asked [the consultant] to call this meeting is if any one of you have serious reservations about that line on the map. The E.A. document will go to MOE [Ministry of the Environment] the first two weeks in January [1981]. We have had to scramble and do some work by phone. We felt we minimized the impacts as best we can. If there are any reservations, we should hear them as quickly as possible. If we have to build, and when we do, changes down the road just won't be available."

As the meeting progressed, however, there were indications that useful input into the preliminary data could not be effectively provided by the assembled group. First, what was presented at the meeting was the preferred route alternative selected by the proponent, with reasons for the choice and technical information provided by the consultant. Although this procedure may have been necessary in view of the site-specific project in question, work on the environmental assessment by the time of the meeting was already advanced to the point where changes, if required, might have been difficult to accommodate.

Second, there was no information handed out at this meeting. There were, however, several maps on display and some information charted on bristol board up on the walls. The environmental assessment document that the company was completing for the Ministry of Transportation and Communications on the road project was in full view but not available, even as a draft, for the assembled ministry representatives. There was also an environmental impact study that the consulting firm was doing for Amoco in view on the table, but not available for examination.

It appeared at the meeting that all the information required for the assessment could not be obtained in the time provided to do the study. For example, the Ministry of Natural Resources pointed out that the Ministry could not address some of the problems relating to wildlife with its present range of biological information. Because of *"the time of year and time restrictions,"* said the MNR representative, *"there has been little or no field work done on wildlife and much information is still lacking in the area"*. For his part, the consulting company president admitted that his staff were not given enough time for this study and could not study the whole area. It appears that some information considered important for the assessment was not available from MNR, nor was there time to obtain it through new field work.



Photo 2; Esker ridge passing through Tweed Lakes, photographed September 1981. Much of the Detour Lake road alignment follows esker systems, which are favoured for road construction because of their good drainage, continuity and abundant granular materials.

Gaps in information, in fact, appeared to constitute a major problem in conducting the government meeting itself, as an incident at the meeting illustrates. When the discussion turned to a possible hydro-electric transmission line to the site, it became apparent that some information that was known to the Ministry of Transportation and Communications and its consultants was not available to the assembled interministerial group. The MTC representative spoke of two or three possible corridors for such a line, which could eventually follow the road alignment. A representative of the Ministry of the Environment suggested that a power line study should be part of the assessment for the road project, since *"allowing [them] to evolve as two separate entities is downgrading good planning"*. The Ministry of Transportation and Communications replied,

"...our plans are close to being finalized and we are not going to bounce it around. Ontario Hydro have their ideas now. There is a multiple use corridor concept and if Ontario Hydro wish to use it, that's their prerogative."

Then followed this exchange, prompted by a Ministry of Natural Resources representative who had *"some further comments on the line"*:

MNR *"Sounds like there is other information that we don't have and [consultant] has. We'd be interested in looking at some of the information to review this alignment. The basic point is, there is some information your group has that we do not presently have."*

MTC *"Hopefully we thought we'd have it out before today."*

MNR *"Natural Resources has a mandate to protect sensitive areas and we overlap with Culture and Recreation; we really shouldn't turn our concerns over to a consultant. We should be looking at it ourselves."*

MTC *"My intention is to give you an advance copy of the report, but it's not fixed up yet."*

MNR *"[MTC official] has said here is where you air your comments, but we can't if we don't have the document."*

MTC *"We'll send out a copy of the latest alignment proposal and data base and ask you to go over the information and get back to us as soon as possible."*

These remarks indicate some shortcomings in the way that government views were taken into account in the route location decision:

- a. Officials of relevant government ministries did not have all the information required to comment on major issues.
- b. If and when such information became available, they had less than a month to consider it and comment on it.
- c. The consultant, who had most of the information, was therefore left to make these kinds of judgments, subject to MTC approval, without the benefit of line ministry input at this stage.

Despite the consultant's professional abilities, and the considerable amount of information obtained by this time from government sources, one can wonder about the suitability and completeness of the assessment under these circumstances.

All the shortcomings identified in the EA process up to this point are reflected in the EA document itself. And the quality of that document led to a host of further problems in the EA process, all of which might have been avoided by more exacting procedures at the beginning of the process.

The Environmental Assessment Document

General Remarks

The Ministry of Transportation and Communications presented an Environmental Assessment Report to the Ministry of the Environment on January 16, 1981. The document was seriously and pervasively flawed, reflecting perhaps the problems associated with the official guidelines for the assessment, the time constraints on the study, and the way the assessment was prepared. First, the proponent failed to define the purpose of the undertaking and thus clarify what was being assessed. Second, the proponent failed to progressively limit the range of alternatives to the undertaking, and alternative methods of carrying out the undertaking through a comparative evaluation of their social, economic and environmental consequences. The report's many other deficiencies derived in various ways from these major flaws.

One of the Ministry of the Environment's responsibilities under the EA Act is to conduct a review of the EA document submitted by the proponent in order to judge its adequacy as a basis for reaching a decision to implement, modify or reject the undertaking in question. In this exercise, MOE's Environmental Assessment Section sends the EA document to various government ministries for their comments and concerns, and incorporates these into a review representing this collective judgment.

Among the government reviewers of the assessment, including the Commission, most had serious objections to the environmental assessment for the Detour Lake access road. The line agencies responded largely with concerns lying within their own areas of responsibility, although many criticized the assessment in general. The Commission's review of the EA document undertook to assess it in terms of its general conformity to the EA Act and the General Guidelines for the Preparation of Environmental Assessments. The following remarks are highlights of the Commission's official review of the EA document as part of the government review process; the complete review is attached as an appendix.

The Commission's Review

a) Purpose

The Environmental Assessment for the Detour Lake access road contained no clear, explicit statement of either the purpose of the undertaking or the scope and methodology of the process used in deciding on a preferred alignment; the rest of the report did little to clarify these matters. And the proponent's interpretation of the purpose of the undertaking had disastrous consequences for the logic and integrity of the document.

For example, a discussion that was ostensibly about purpose instead listed the benefits of a road to Detour Lake, such as job creation and initial access to other resource-related developments. A statement of benefits, however, is the result of an assessment, not its purpose. In any case, the report nowhere defined unequivocally what was being assessed. At some points, access to the mine appeared to be the objective; at others, access to the northeast generally. The repeated reference to various resource development prospects in the region, and to the provision of general access to the northeast led to an ambiguity which pervaded the whole assessment. It is questionable, moreover, whether the two implied objectives of access to the mine and access to the northeast generally could be addressed adequately in the same assessment. And access to Detour Lake as a means of gaining access to the northeast led to a new nest of problems and unanswered questions.

Many important questions raised by this ambiguity were never addressed. Would a road passing through Detour Lake be the most beneficial and environmentally acceptable route for gaining access to the northeast? What would be the associated costs? To what degree does the justification for provision of improved access to the northeast depend on benefits accruing from the mine development at Detour Lake? And finally, (since a road to Moosonee was often mentioned in the report), if the northeast access route were to be extended to Moosonee, what impacts would it generate there? Ultimately, the use of the issue of extended Northeastern Ontario access to strengthen the case for an access road to Detour Lake was highly misleading in this assessment.

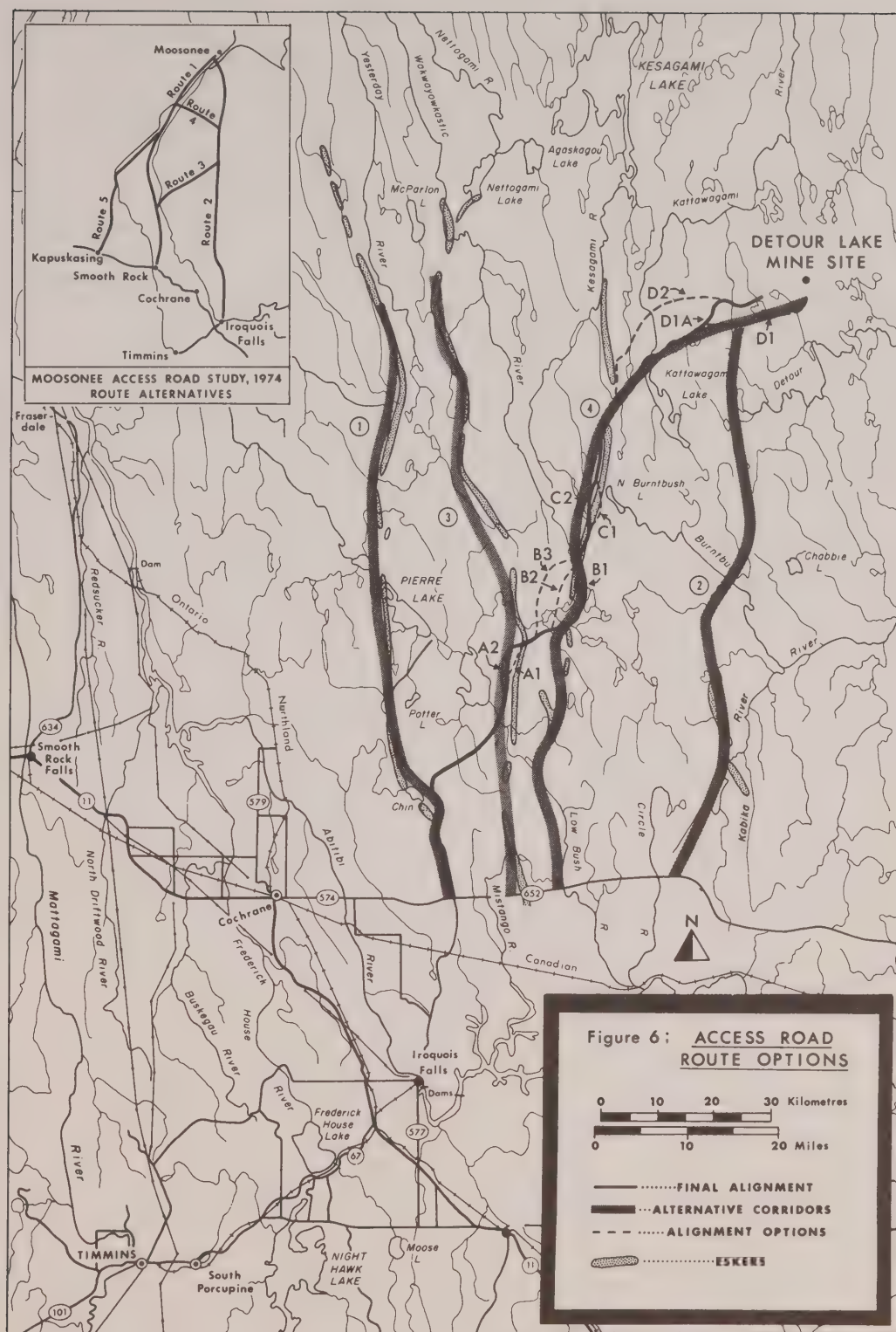
Given this clouded starting point for the assessment, it is difficult to see how other requirements of the logical and progressive EA process could possibly be met adequately. The major and overall requirement is to identify and then narrow down alternative ways of achieving the stated purpose of the undertaking, which in this assessment was not stated. A large part of this problem of purpose may have stemmed from the fact that the mine development was not designated as being subject to the EA Act, and this must have created serious conceptual problems for the proponent. The mine would be the major project with the potential for generating benefits. The road would just be a means of stimulating and supporting the mine development, and securing and transmitting the flow of benefits from it. The road would therefore be difficult to justify on its own terms. But the combined effects of the mine and road could not be assessed together in this environmental assessment since only the road was subject to assessment. It is not surprising, then, that the proponent was tempted to consider potential resource developments in Northeastern Ontario to help justify the road. Besides, the proponent ascribed benefits to accessing the northeast that were unsubstantiated and that could only be anticipated.

b) Procedures

In any case, the logical steps stipulated in the General Guidelines for identifying and narrowing down alternatives to achieve the undertaking's purpose were poorly adhered to in this assessment. (These steps are outlined in the Commission's official review of the EA document.) First, there was no clear description of the procedures followed in the proponent's assessment process; instead, the proponent focused on a discussion of the field work carried out by the consultants within a preferred road corridor to the mine site. Second, alternatives to the undertaking were only briefly discussed and rapidly discarded in favour of an Ontario road to the site from the Cochrane area. As a reflection of the confusion over the purpose of the undertaking, reference was made to a previous study in 1974 which identified several road corridors leading to Moosonee. But these were not re-evaluated, nor was the relevance of these routes to the Detour Lake road made clear. Certainly, they could be considered to be alternatives to the Detour Lake road in providing access to the northeast, but not too credibly as an alternative means of providing access to Detour Lake. Despite these difficulties, the proponent was able to identify four corridors which could provide access to Detour Lake, and which constituted alternative methods of carrying out the undertaking; a fifth corridor combining some parts of the others was selected as the preferred corridor to Detour Lake (Figure 6).

Next, the proponent's selection of three study areas for the collection of baseline data and an analysis of the consequences of the undertaking was done without specifying any criteria for establishing or bounding the areas; the areas were also unsatisfactory in several ways. The area identified for biophysical and land use studies ended at the latitude of Kesagami Lake, and could not be useful for delineating factors relevant to northeast access. As for socio-economic analysis, two levels were used: the Cochrane Census District, and the local areas of Cochrane, Iroquois Falls and Timmins. The first is a very broad area and was of questionable value in the analysis of impacts (and much of the data were outdated); the second excluded from close analysis some inhabited places like Moosonee and Moose Factory that could be affected by northeast access.

The proponent's description of the environment affected by the proposed road to Detour Lake, and by alternative transportation modes and routes, reflected deficiencies specific to the primary aim of an assessment process. First, the description of social and economic conditions suffered from data gaps, outdatedness and the aggregation of census information, making it less locally relevant. The description of the biophysical conditions was impressive in its volume but striking in its obscurity. For example, generalized information, largely collected earlier by others, was applied to the study area as a whole. At the same time, detailed field studies of certain features in the preferred road corridor area were carried out to provide specific and localized information, but no attempt was made to integrate the results of these two levels of work.



In short, the baseline description could hardly be said to meet criteria set out in the General Guidelines. Only information that is relevant to a comparative evaluation of alternatives in the narrowing down process is necessary for description; in other words, as the Commission's own review pointed out, *"In an environmental assessment, descriptive information has only an applied value, not an intrinsic value."* The Detour Lake EA Report presented a great deal of information that was excessive or irrelevant for that purpose, while omitting other information that would have been useful.

c) Comparative Evaluation

The final step in the EA process requires the proponent to evaluate and compare alternatives to a proposed undertaking and alternative methods of carrying out an undertaking, using a comprehensive set of social, economic and natural environmental criteria. This is done in three stages: prediction of potential effects, identification of mitigation possibilities, and evaluation of alternatives. The proponent's evaluation in this case was focused on the final stage of the narrowing down process: selection of a proposed alignment within a preferred corridor. The final preferred alignment was established through a process of trading off engineering, environmental and land use considerations, and became the proposed undertaking. Several deficiencies in the proponent's evaluation at earlier stages were apparent, however.

The report stated that the preferred alignment and corridor are best for providing access to Northeastern Ontario and to the mine, but did not substantiate this statement. Although a northeast access route through Detour Lake was being presented as meeting both objectives, the costs, benefits and natural environmental consequences of this route were not defined, nor evaluated against those pertaining to alternative routes. As for evaluating alternatives to the undertaking, this, too, was done summarily; the reasons for rejecting the flying option, for example, were unconvincingly explained, and the railway alternative was dismissed as being unnecessary for the mine operations.

When the evaluation reached the point of proposing access to Detour Lake by road, four candidate corridors were delineated. These were compared on the basis of five main unweighted criteria; distance, access to Northeastern Ontario, impact on outfitter camps, impacts on Abitibi-Price operations, and costs. This comparative analysis was both limited and subjective. First, the proponent did not do a rigorous analysis of the costs, benefits and environmental impacts of the various corridors; in fact, he did not draw much on the vast data base he had assembled. And not assigning weights to the criteria meant that a productive and judicious analysis of trade-offs could not in fact be done. These shortcomings caused no concern to the proponent; in fact, the EA Report even admits the unimportance of these factors to its analysis at this stage: *"...only the engineering parameters were considered relevant during the route selection stage"*.

This major defect--failure to do a comparative evaluation of all factors in the analysis--was further reflected in the proponent's assessment of the social and economic impacts of the undertaking. The report did not give serious consideration to social and economic factors in the comparison of alternative modes and routes. Thus, important trade-offs involving Native people and wilderness camp outfitters were not confronted. More striking is the fact that there was no consideration of the magnitude of benefits to the Province of Ontario through the development of the mine and the provision of access to it, and to the northeast generally. This is unusual since part of the rationale advanced in favour of the road included the objective of "*maximizing economic benefits to the province of Ontario*". Not surprisingly, there was no analysis done of provincial costs incurred by the project, either.

The failure to identify and evaluate the costs, benefits and natural environmental impacts of the various alternative methods of carrying out the undertaking was a major defect of the EA Report, and essentially undermined the whole point of preparing an environmental assessment. The report also failed to present a "balance-sheet" comparing the undertaking's benefits and costs in either quantitative or qualitative terms; nor were cost values assigned to mitigation measures or to unmitigated impacts of either the undertaking or alternative methods of carrying out the undertaking. The proponent presented, both as purpose and rationale, a range of benefits to be derived from the undertaking, many specific ones of which were not substantiated, without a counterbalancing summary of the associated costs and adverse impacts of the undertaking. This can only be regarded as misleading. And failure to balance costs against benefits, and evaluate them, constituted a fundamental deficiency in the report in terms of what an environmental assessment is meant to accomplish. On this subject, the Commission's official review concluded,

"In sum, the proponent fails to provide the public or decision-makers with any sort of balance sheet that clearly sets the costs associated with the undertaking and the alternatives against the benefits. In the final analysis, the proponent fails to drive home a justification for the proposed access road to Detour Lake."

Reviewers' Comments

The Commission's review was on a broader basis than those of line ministries concerned largely with their own mandate areas. Even among these, however, general deficiencies of the EA document did not escape notice and were duly commented upon, in addition to specific ministry concerns. The range and seriousness of these specific ministry concerns, moreover, simply added to the overall impression given collectively by the reviews that this EA document was seriously deficient.

The Ministry of Natural Resources, the government agency whose area of responsibility was most directly affected by this assessment, left no doubt about its position on the matter. The review prepared by MNR's Northern Region began,

"Generally, we found this environmental assessment to be lengthy, repetitive, unorganized and over-documented, but with very little field research data. The assessment also lacked two essential parameters:

- 1. specific terms of reference, and*
- 2. sampling design"*

About terms of reference, the review went on to point out that

"...there was no corridor width specified, nor a list of mandatory concerns to be dealt with. Specific terms of reference could have controlled ponderous ramblings on topics non-essential to this undertaking...The environmental assessment should have been a more intensive study of the local area as it pertains to the proposed undertaking."

About sampling design, the Ministry was concerned about the quality of field work conducted in a short autumn study, without an analysis of seasonal effects, and added,

"While the consultants' other environmental studies in the area do increase their familiarity with the study area, they do not in themselves justify a reduced field effort. The field study sites generally appear to have been chosen more for ease of access and sampling than for thoroughness or sampling design."

Two more major problems were identified:

"Another downfall of the E.A. is that while many potential problems are recognized and presented in the document, no solutions or mitigations are given (e.g. proximity of tourist outfitter camps to the proposed road). In other cases, not enough information is given to determine if M.N.R.'s concerns will be met."

"While there is an abundance of data, we feel the analysis is weak. This is partially due to the fact that alternatives are scattered throughout the document...The analysis on page 4.14 should have compared all of these alternatives."

The Ministry went on to point out that these comments did not affect its position that the *"recommended alignment is generally a good one with one exception"*, and explained its reasons. Then the Ministry included eleven pages of specific concerns, most of them pointing out inaccuracies in the data or analysis, inaccuracies that could have done little to reassure anyone, especially the Ministry of the Environment, that the environmental assessment was done properly.

The Ministry of the Environment's Special Studies Section, moreover, pointed out some more fundamental problems with the EA document, specifically:

"As an Environmental Assessment...the document has the following deficiencies:

- a) alternatives to the undertaking and alternative methods of carrying out the undertaking have not been adequately distinguished in the document. In addition, alternatives to the undertaking have not been adequately examined. Chapter 4 deals with Alternatives but only alternative methods. The do nothing alternative is not examined, while the railway alternative is dispensed with in one sentence.*
- b) The impact analysis, in terms of costs and benefits, emphasizes benefits but gives little detail on costs. In Sec. 5.2.1, great detail is provided on jobs and wages both direct and indirect but little equivalent information is provided on provincial subsidies and capital costs, annual maintenance costs for roads and utilities or social and administrative services costs at both the Provincial and municipal levels."*

In addition to noting that the document was wordy, contained a mixture of imperial and metric units, suffered from poor editing, and was missing some diagrams and units on diagrams, the review identified a basic inconsistency in the assessment:

"The decision process leading to the proposal appears to have predetermined in 1974 that a road would be built and subsequently that was the only

alternative seriously considered. On this basis, the document does not fulfill the content requirements for an EA as set out in Sec. 5(3) the Environmental Assessment Act...the document is not a true EA. Rather, it is an environmental appraisal (or environmental impact statement) of alternative routes for a predetermined road."

Other important, general problems identified were the following:

"...Nowhere in this section [S. 1.2], or elsewhere in the document, is the undertaking related to overall long term planning and policy for N.E. Ontario. For instance, is the undertaking consistent with MNR's 'Proposed Strategic Land Use Plan for N.E. Ontario'?"

"...Somewhere in the report, the total costs to the Provincial Government and municipalities in providing road access to the Detour Lake area should be provided."

"A great deal of detail is provided on benefits in the form of jobs created and dollars spent, however, there is no equivalent amount of detail on costs incurred, for instance, from increased fish, game and parks management, the provision of health and social services, provincial subsidies, ongoing road maintenance costs, etc. Some 25 pages are devoted to benefits and only one-half a page is devoted to possible utilities and municipal finance costs."

The Ministry of the Environment's Northern Region highlighted the document's two main flaws in its review: confusion over the purpose of the undertaking, and failure to do a comparative evaluation of alternatives. It pointed out that if access to areas of high mineral potential was the purpose of the undertaking, then the road should be located further to the east; and that the "EA seems to be lacking in the detail required to properly evaluate 'Transportation Options' as required by the MOE guidelines prepared for this particular EA."

The Ministry of Culture and Recreation's Historical Research and Planning Branch was totally unsatisfied with the way archaeological and historical studies had been carried out, its main objections being that the Branch was not consulted in the study, and that a "lack of field survey gives a note of conjecture to the entire report". A five-page summary of specific concerns supported the Ministry's position that "The Environmental Assessment document is not sufficiently complete in respect to the policy concerns of this Ministry."

Accordingly, we cannot recommend that it be approved nor approved with conditions."

The Ministry of Treasury and Economics commented on the document in a few exemplary sentences:

"We reviewed the EA document for the...project, focusing on its socio-economic aspects. In general we found that these aspects were not dealt with very thoroughly, certainly not to the same extent as noise, small mammals and herptofauna. At times,...it seemed as though the authors were ...simply overcome by the sheer volume of their work. Their discussion of the road's impact on forestry operations, for example, is fragmented and contradictory; on the one hand, suggesting it will benefit such operations..., and on the other hand, saying it will not affect them..., and that it will even create problems for them...."

The Ministry concluded that its concerns were not serious enough "to warrant holding up the work that has already begun on clearing a right-of-way for the road".

An example of concerns specific to a particular ministry was provided in the Ministry of Industry and Tourism's review which stated, "In our view, the EA Report has provided no evidence or estimates to support the claim that 'justification of the need for the project includes...increasing the area's tourism revenues'". The review added that there was instead a "danger that an existing source of tourist revenues, namely that associated with fly-in tourist operations, will be undercut". The review made this final comment on the topic:

"We wish to stress that the envisaged increase in 'road tourism', meaning unorganized Crown land camping, hunting and fishing, constitutes a type of tourism that brings much smaller benefits in terms of the area's income and employment. It is also destructive of the higher income types of tourism, such as fly-in operations."

Other ministries that reviewed the document--Housing, Labour, and Community and Social Services--had only minor comments to make about the undertaking, which had less direct relevance to their areas of responsibility; essentially, all these reviewers offered suggestions on how issues relating to their line responsibilities should be treated in future environmental assessments.

Whatever the circumstances that led to the production of this flawed EA document, and however understandable their effect on the preparation of the document, the conclusion in this case was clear: the EA document was not acceptable. The EA document is the linchpin of the EA process; a seriously flawed document can block normal progress as resolutely as a wall. The Detour Lake EA document threw the normal review process into confusion for many months, as an unfolding of events shows.

Responsibilities and the Process: The Rest of the Story

Announcements and Responses

The Ministry of the Environment received the Environmental Assessment Report on the Detour Lake Access Road on January 16, 1981, but the official date is January 23, 1981, when the covering letter from the Minister of Transportation and Communications was received by the Minister of the Environment. On January 21, 1981, Dome Mines and Campbell Red Lake Mines issued separate announcements of plans to proceed immediately with construction at the Detour Lake Joint Venture gold deposit. By January 22, the Ministry of the Environment's Environmental Assessment Section was preparing to send the EA Report to interested groups, municipalities and government reviewers. On January 23, however, while the EA Reports were stacked up in the Ministry's offices awaiting mailing, the Ministry of Northern Affairs issued a news release announcing *"the awarding of a contract to begin construction of the Detour Lake Road"*.

The MNA news release, under the auspices of the Minister of Northern Affairs and the Provincial Secretary for Resources Development, threw the normal review process into confusion. At the Interministerial Committee meeting on Thursday of the following week, a Ministry of the Environment official complained about an apparently cavalier disregard of the law. Officials of other ministries argued that the "wording" of the announcement was "poorly done"; the contract was only for "clearing". The Ministry of the Environment official maintained that clearing represented a commitment to a road alignment, if not to road construction. Whatever the semantic difficulties of the case, the Ministry of the Environment was left in a position of conducting a review of the assessment of a proposed project after the announcement was made that construction of the project was to begin.

Difficulties in administering the EA process in this instance arose from an unusual angle. The clearing for this road was taking place on land for which the Abitibi-Price paper company had a lease for timber cutting. Since Abitibi was going to cut the trees at some time in the future anyway, it was argued, clearing represented the same thing only done earlier. The Ministry of Transportation and Communications came to an agreement with Abitibi: MTC could proceed with clearing as long as Abitibi got the trees. The Ministry of Natural Resources approved of this. No one, therefore, could prove that anyone was doing anything wrong. MTC was just getting ready for being ready to build a road--if the project were approved. On January 28, 1981, a work permit was issued by the Ministry of Natural Resources to a contractor in Hearst engaged by the Ministry of Transportation and Communications to do the clearing.

On February 11, 1981, an exemption order drawn up by the Ministry of the Environment for the clearing activities was ratified as an order-in-council by Cabinet. The main points of justification for this action were the following, paraphrased:

- The Ontario Government has made a commitment to provide access to the Detour Lake site, subject to the environmental assessment being approved
- The road alignment must be cleared to ensure that 150 km of road can be completed on schedule by the time the mine becomes operational
- Clearing has to be done in winter to avoid fire hazards
- The road alignment being cleared is within Abitibi-Price forest lease limits
- Abitibi-Price plans to harvest the trees that are now being cleared within the next five years anyway; and the Ministry of the Environment is satisfied that the trees will be properly used
- The clearing will not disturb the ground very much
- The environmental assessment for the road has been submitted to the Ministry of the Environment
- The clearing will allow advanced soil investigation to be done for determining erosion levels and mitigation required

The terms and conditions of the exemption order stress that construction of the road can proceed only if it is approved under the EA Act, and that

"The carrying out of the advance clearing shall not influence or determine the acceptance or approval of the route for the Detour Lake access road, nor shall it influence or determine the decision on whether or not to grant approval to proceed with the access road."

In other words, the Ministry of Transportation and Communications would be clearing the road alignment "at its own risk", so to speak and would have wasted some time and effort if the road alignment would have to be changed, or if the project were not approved at all.

The Review Process

After the environmental assessment document was received by the Ministry of the Environment, the Environmental Assessment Section began its task of co-ordinating and preparing a review of the document, as is its responsibility according to Section 7(1) of the EA Act. A proposed project is approved, approved with conditions or rejected by the Minister of the Environment on the basis of the environmental assessment document that discusses the project. First, the document



Photo 3; Cleared segment of the Detour Lake road alignment, photographed September 1981. A commercial outpost camp is situated on Loune Lake (right, centre).

was sent to representatives of ministries that had an interest in the proposed project from the point of view of their own line responsibilities. According to the Environmental Assessment Section, all ministries are invited to indicate an interest in examining a particular EA document. The report was also sent to interested groups and municipalities in the affected area; an attempt was made through informal inquiries and referrals to determine those among the general public who would be interested in the document in the area affected by the project. Requests for the document were also met.

By early March 1981, the Environmental Assessment Section had received all of the reviews prepared by interested ministries. Most of those responses were unfavourable and called into question the



Photo 4; Stream crossing along cleared alignment of the Detour Lake road, Shirley Lake area, photographed September 1981.

document's adequacy as a basis for approving or rejecting the project in question. March passed. In late April, a Section official conducted interviews with some of the people concerned in the affected area, mainly people who had expressed some opposition to the project or the assessment.

What point these interviews might have served in the context of a government review of the EA document is unclear. First, the interviews were conducted well after the EA document was submitted, and nearly two months after all the government reviews were received, many of which indicated that the EA document was inadequate. If these interviews were meant to gain the local perspective on the project, in view of the deficiencies of the document, it would seem that the

normal two-step process of approval--first the document, then on the basis of the document, the project--was being overridden. Can a decision on the project be made before a decision on the document? Can the project decision be made in isolation from a judgment on the adequacy of the document?

Furthermore, the question of duplication of effort is raised by the fact that it was the Environmental Assessment Section that conducted the interviews with groups which included a Native organization, some tourist outfitters and local municipal organizations. The concerns of those groups should have been adequately addressed and documented in the EA document itself. This action gave the impression that the Ministry of the Environment was re-doing the work that was properly the proponent's responsibility.

At the end of April 1981, there was still no official review of the EA document prepared by the Environmental Assessment Section. The proponent, however, had to begin construction of the road in mid-May 1981 in order to have it completed by the time the mining operations were scheduled to begin. Even if approval were granted by that time, there would have to be a further minimum delay of 30 days for the public to inspect and comment on the EA document and the government review of it, as stipulated in the EA Act.

The simultaneous requirements of the normal EA process and of the road construction scheduling created a dilemma for the Provincial Government. Even if the proposed alignment could be considered acceptable, the document which supported this proposal, and on which a decision should ostensibly be based, was seriously flawed; in that case, road construction could be delayed by the EA process. On the other hand, time limits at an earlier stage led in part to the crisis of the flawed document; the Ministry of Transportation and Communications had met the stipulated deadline of early January 1981 for submission of an EA document, but at some sacrifice to the structure and completeness of the assessment.

Alternatives

By early May 1981, a number of meetings were held between high-level officials of the Ministry of the Environment and the Ministry of Transportation and Communications in an attempt to resolve the deadlock that had developed. MTC needed to begin construction of the road; MOE, however, would have difficulty approving the document in the light of government reviewers' comments. Two obvious alternatives remained as a result of these ministerial positions: the normal EA process, in fulfillment of an acceptable standard for environmental assessment, would delay the project schedule and therefore the provision of road access to the mine site by the time the joint venture needed it; or the proposed road project could be exempted by Cabinet from EA requirements so that road construction could proceed. The consequences of adopting either alternative were equally serious.

In the first case, a delay in providing a road to the mine site could jeopardize the whole point of the project--keeping the benefits of the mine development in Ontario. On the other hand, if the whole project were exempted from EA requirements to allow road construction to proceed according to schedule, the Government's action could be construed as a serious violation of the spirit of its own legislation. It would not contravene the provisions of the Act, however; this procedure is accommodated in the EA Act. Both the Minister and the Lieutenant Governor in Council (the Lieutenant Governor is the formal voice of the Executive Council, or Cabinet, of Ontario) can exempt certain undertakings from environmental assessment requirements of the Act, and no time is stipulated. If this is done while the normal EA process is occurring--in this case, near completion--then the point of the Act and process is seriously undermined.

Withdrawal of the EA Document

Neither alternative is acceptable, and neither should have to occur in the normal scheme of things. Neither, in fact, was adopted at this stage in this case. By mid-May, the Ministry of Transportation and Communications and the Ministry of the Environment appeared to have reached an understanding that the EA document for the Detour Lake road would be withdrawn by MTC, and revised to meet certain conditions set by MOE. Official word that the document was being withdrawn was sent by the Minister of Transportation and Communications to the Minister of the Environment on May 20, 1981. There appears to have been no official request for withdrawal, however, by MOE to MTC. According to Section 7(3) of the Act,

"A proponent may withdraw or amend an environmental assessment at any time prior to the day on which notice is given under subsection 1 and thereafter may withdraw or amend an environmental assessment subject to such terms and conditions as the Minister may by order impose."

Since in this case the proponent is known to have wanted the project approved, it is unlikely that the document was withdrawn because the proponent had second thoughts about the project or wanted to change some things in the light of new information. It appears that in this case the Ministry of Transportation and Communications adopted a position of withdrawing the document on the basis of informal knowledge of how it would be reviewed officially, or even of how government reviewers had responded to it by that time.

An impression of arbitrariness in the evaluation of environmental assessment documents is created by the fact that there was no evidence which would demonstrate the inadequacies of the document to the proponent before he withdrew or agreed to withdraw it. Nor was there an official government review of the flawed EA document prepared by the

Ministry of the Environment; the Ministry maintained that this would be done only after the document was revised.

New conditions for a revised EA document, however, had been prepared by this time by the Ministry of the Environment, and the various government reviews had been available for months before. None of this information was provided to the proponent before the document was withdrawn. But, in fact, it was provided after the document had been withdrawn. What is the point of this procedure? Why not tell the proponent--in writing--what is wrong with his document and what should be done to correct or improve it?

The logic in the procedure of withdrawing the EA document appears to have been that the document was so seriously flawed that it was beyond redemption by means of merely cosmetic measures; major revisions appeared to be necessary. But that in turn would have had staggering implications for timing--for getting approval for the project and starting construction. But if the document were to be withdrawn in any case, then why was this not made known to the proponent earlier, particularly in view of the project's scheduling requirements, and in view of the Ministry of the Environment's knowledge of the document's flaws, specifically identified by government reviewers? Even if no official review were done, specific conditions for improving the document could have been set with little difficulty on the basis of the reviewers' comments. The Ministry of the Environment appears to have been in a quandary about what to do during March, April and May, but why?

Withdrawal of the document at this point, moreover, had the effect of putting the normal EA process back to its initial stage: when guidelines for the assessment are established. The next stages--preparation and submission of a new revised EA document to the Ministry of the Environment, and preparation of a review of the document by the Ministry--were yet to come, according to the normal EA process that was expected to be followed. The decision to require revision of the document at this stage leads to an important consideration in this case, and in any environmental assessment: timely provision of clear criteria for the assessment.

Questions of Criteria

The Ministry of the Environment's "Proposed Considerations for Preparation of a Revised EA Document", given to the proponent after the EA document was withdrawn, amounted to a new set of guidelines for the assessment--nearly a year to the day after MOE first agreed to draft guidelines for the project. The thirteen new conditions for revision of the EA document were certainly an improvement over the guidelines set for this project at the beginning. At this stage, however, the new conditions did little justice to the effective administration of the EA process. First, they could have been provided sooner (assuming that revision was required), given that the points to

be clarified were identified to a large extent by the government reviewers. Second, the points in these conditions bear little relation to the guidelines for assessment provided at the beginning of this process. This means that two different sets of guidelines or criteria for the assessment were provided to the proponent at two different times. Finally, since the second set of guidelines incorporates many conceptual or structural aspects of an environmental assessment, there is a possibility that many of the problems that ensued in this case could have been avoided if criteria like these had been provided to the same extent at the beginning of the process.

This is not to say that the new conditions were completely satisfactory, however. The new Introduction raised several problems in the same way as the first did. The first sentence of the new Introduction said,

"In view of the inability of reviewers to deal with the way the EA has been prepared and presented and in considering the special circumstances of this project, it is being suggested that a revised document be prepared while the existing one being kept as an appendix for reference only."

The "inability of reviewers to deal with the way the EA has been prepared and presented" could not be considered a proper reason for the EA document needing to be revised; that phrase suggested instead that the reviewers themselves were deficient in their abilities. This is not nit-picking. It is pointing to the absence of a statement to the effect that the EA document itself failed to meet an acceptable standard for an environmental assessment.

Once again, the "special circumstances of this project" were cited, but without identification or definition; this served little purpose. Finally, to suggest that a revised document be prepared with the original being kept as an appendix to the new one created new difficulties. The original EA document was withdrawn; could it be re-submitted, without change, as an appendix? And what then were the reviewers expected to review? Many disapproved of the original; could they approve of the new EA document if the original was part of it?

There is another serious problem with the new Introduction. "While this list is comprehensive," says the Introduction about the conditions to follow, "it may not cover all points and it is up to the proponent to ensure that the revised document is as complete as possible." What does this mean? What assurances can it provide to the proponent that his adherence to the conditions as laid out will put him on the right track and result, as he hopes, in his EA document being approved? On the other hand, the proponent could insist that whatever information he provides in the revised document is "as complete as possible". This kind of qualifier is arbitrary. It does not

help the proponent much, and it does not contribute much to setting standards for an acceptable environmental assessment.

The New EA Document

Despite the new difficulties posed by the "Proposed Considerations for Preparation of a Revised EA Document", and despite the seriousness of the defects identified in the original EA document, the Ministry of Transportation and Communications managed to submit a new document to the Ministry of the Environment on June 5, 1981. The revision of the document therefore took place within an astonishing time span of two and a half weeks. This is all the more remarkable in view of the fact that the document was considered so fundamentally flawed that it was required to be withdrawn, not merely revised.

Government reviewers received the new document on June 8 and were to reply to the Ministry of the Environment with their comments by June 19. In this second round of review procedures, the document was sent to only 14 of the original 26 government reviewers, ostensibly only those who expressed concerns in the first series of reviews. Of these 14, only six responded. One approved the document unreservedly; one totally rejected the document. Two approved the undertaking with reservations about the document; one approved the undertaking with qualifications on the undertaking. And one had no comments on either the document or the undertaking but expressed concern over certain implications of the undertaking not addressed in the document.

The new document could not be considered to be an unqualified success. The Ministry of Housing, although it had no comments on the document or undertaking but expressed concern over an evaluation of the implications of the mine and road for surrounding community structures in Cochrane, Timmins and Iroquois Falls, felt that this should be done either in an environmental assessment, depending on its terms of reference, or in a separate study.

A District Office of the Ministry of Natural Resources approved the undertaking but added that *"a series of commitments by MTC to maintain close contact with field offices [of MNR] during the construction period"* compensated for the *"weaknesses in the document"*. Three pages of specific comments were added, however, to clarify certain points in the document *"for the public record"*. In conclusion, the review made this suggestion for better administration of the EA process:

"Further efficiencies could be gained the next time an exercise like this is undertaken by having pre-study input by MNR into the consultant's guidelines. This would have saved some duplication of effort, clarified inventory priorities and generally saved time."

The Ministry of Industry and Tourism *"did not oppose the approval"* of the undertaking but noted that the document *"has not escaped a misrepresentation of the tourism issue with respect to the area of the proposed Detour Lake Goldmine access road"*. The Ministry felt *"obliged to correct the views expressed therein"*, and did so.

The most stringent response came from the Ministry of Culture and Recreation, with a three-page summary of its concerns:

"The information in the new submission of Environmental Assessment for the Detour Lake Access Road is still not sufficiently complete to permit a decision to be made as to its acceptability. Moreover, we cannot support the planning procedures that have characterized this project. In our view, it would not be very useful to provide yet another lengthy discussion of the deficiencies of this Environmental Assessment...Rather, the comments enclosed seek to identify those areas where positive action may still take place:

- * measures to mitigate against deficiencies of the heritage resource component*
- * discussion of issues raised by the Environmental Assessment of pertinence for subsequent projects"*

The new document could still be considered questionable, therefore, on the basis of several of these comments. No one, however, opposed the undertaking itself, and said so. It seems that the reviewers did not make a distinction between approval of the document and approval of the undertaking in their responses. Their first task as reviewers, however, was to judge the adequacy of the document as a basis for a decision on the project. The nature of their responses raises the question of whether the normal two-step approval procedure of the EA process--first the document, then on the basis of that, the project--is being recognized in some cases.

The second document, moreover, was not sent to any of the 16 non-government groups and individuals who had received the original document; requests for the document, however, were met. The Environmental Assessment Section sends the EA documents to members of the public at its own discretion. In this case, the failure to include the public in the second review process appears to have been an attempt to reduce complications and speed up the review process. This can be seen as the result of the pressures of stringent deadlines, but it is inconsistent with the spirit of originally including the public in the EA process at this stage. Presumably, however, the public would have an opportunity to inspect the second document, together with the

government review of it, after the review was completed by the Environmental Assessment Section, as provided for in Section 7(2) of the EA Act.

That did not happen. No review was prepared by the Environmental Assessment Section. No opportunity was given for public inspection of the EA document. On June 24, 1981, three days after government reviews were to be submitted to the Ministry of the Environment, the Detour Lake Access Road was exempted from further environmental assessment requirements.

PUBLIC PARTICIPATION AND THE ENVIRONMENTAL ASSESSMENT PROCESS

The Public and Environmental Decisions

Possibilities and Limitations: The EA Process

Northerners have long complained about their lack of involvement in decisions affecting their lives. Many of those decisions concern major developments in Northern Ontario which have important economic consequences for the environment. Those impacts affect not only the natural environment but also *"the social, economic and cultural conditions that influence man and the life of man or a community"*, as the EA Act defines environment. Northerners have repeatedly stressed to the Commission two main concerns: that Northerners must be involved in the decision-making process on issues that affect them; and that development, when it occurs, should proceed in an orderly fashion, in concert with and not at the expense of the environment. Public involvement in the decision-making process to ensure controlled development is therefore one of the Commission's central concerns.

The EA Act is only one part of the decision-making process on matters that affect economic development and productivity on the one hand, and environmental protection and management on the other. The EA process cannot address all these issues, nor resolve all the conflicts that might occur. In fact, the EA process is only the practical result of an earlier tentative decision, sometimes economic, sometimes social, that is made outside the sphere of the EA Act. The Act itself is structured on the basis of a particular proposed undertaking, without which the EA process would be unfocused. To the extent that the EA process is a response to a decision made outside the sphere of the legislation, it can address only part of the issue of controlled development. To the extent that it embodies the possibility of rejecting or modifying the proposal in question, however, it can exert some measure of control over specific developments.

Within its limitations for influencing development, the EA Act nonetheless provides a comprehensive perspective on whatever issue or undertaking is being considered. This perspective encompasses a broad range of issues, problems, options and outcomes which includes but extends beyond that of a strictly economic one. The EA process is meant to determine not only the best among many alternative undertakings, but also the implications and consequences of the alternatives and the final undertaking. Procedures under the EA Act can highlight and substantiate the trade-offs that need to be made in a particular case in order to arrive at a reasonable and fair decision on how best to proceed.

The decision-making process of the EA Act is visible to the extent that the complex system of evaluation and trading off that leads

to a decision is available to the public. Provisions in the EA Act can thus offer the public an important insight into and justification for both the evolution and outcome of the decision-making procedures that occur in a particular case. What the EA Act and process can do, therefore, is to provide a rational, accessible process for environmental decision-making, and also important, a clear public pattern of accountability for environmental decisions.

But how is this public component provided for in the EA Act and process? The only mention of public involvement in the EA process that is made in the EA Act itself is in S. 7(1) and 7(2), which refer to the public in the giving of notice of the assessment and review, and the inspection of the assessment and review. Section 7(2) states,

"Any person may inspect an environmental assessment of an undertaking and the review thereof in accordance with the terms of the notice referred to in subsection 1 and may, within thirty days of the giving of the notice or within such longer period as may be stated in the notice,

- (a) make written submissions to the Minister with respect to the undertaking, the environmental assessment and the review thereof; and*
- (b) by written notice to the Minister, require a hearing by the Board with respect to the undertaking, the environmental assessment and the review thereof."*

This opportunity for public involvement occurs at the end of the evaluation process, however; no mention of public participation in the earlier stages of the EA process is made in the Act. The General Guidelines does refer to public participation as a desirable component of the early part of the environmental assessment process. On page 31, the General Guidelines states,

"The early involvement of the public in decisions which affect its interests, is increasingly becoming recognized as a citizen right in a democratic society. It has an important role to play in the process of community and citizen development, and as a means to a more equitable and effective policy planning process.

"During the planning process culminating in the preparation of the environmental assessment document, the proponent is strongly advised to involve the public, even though public participation at this stage of the process is not a formal legal

requirement. It can be of great assistance to the proponent in preparing the environmental assessment document, and in facilitating its passage through the review process and public hearings (if held) of the Environmental Assessment Board. The proponent is likely to be on firmer ground if evidence can be presented of previous consultation with those likely to be affected by the undertaking or its alternatives.

"Such public involvement can identify background information and local perspectives possibly previously unknown to the proponent, and can provide data on public goals, attitudes and values. Public participation early in the planning process may highlight areas of public concern, perhaps thereby helping to avoid confrontation between proponent and public, and consequent delay of the proposal. The public may also put forward alternative solutions to problems, which otherwise would not have been perceived."

Although the General Guidelines "strongly advise" the proponent "to involve the public" in the assessment process, the Ministry of the Environment has no public education program to explain the EA Act or the environmental assessment process to the public. If a large part of the public is unaware of the Act, the public cannot be expected to know of its own powers under the Act, of its *"several opportunities, formally under the Act, to require the Minister to have hearings held by the Environmental Assessment Board"*, as the General Guidelines point out.

Likewise, the proponent is given no direction about what he should undertake as public participation. Nowhere in the General Guidelines is "public participation" defined, although admittedly, many approaches are possible. The proponent, nevertheless, is left essentially to his own devices in this matter. The General Guidelines leaves the interpretation of "participation" and "consultation" in the EA process to the proponent, and he may execute these responsibilities summarily or in a limited way and still serve or be seen to serve the intent of the General Guidelines.

It is certainly possible for local concerns to be identified and integrated into the procedures of giving weight to various factors and weighing the alternatives in each case. But the proponent's motivation for the narrowing down process is nevertheless one-sided: supporting an argument to proceed with the undertaking. Ultimately, the public's opportunity for knowing the justification for a particular project--as the EA Act stipulates in Sections 7(1) and 7(2)--is questionable if terms of reference for public participation in the process were never established in the first place.

What is being considered here is the extent to which the public is involved in the decision-making process within the EA Act--the process of identifying issues, evaluating them and trading them off that forms the EA process. What happened in the case of the Detour Lake road environmental assessment is an example of the accessibility of the decision-making process to the public.

Policy and Procedures for the Detour Lake Road

The Ministry of Transportation and Communications has its own policy for involving the public in its projects, and this policy, it seems, constituted MTC's way of interpreting the General Guidelines¹ reference to public participation. In a letter to the Commission, a regional official in MTC's Environmental Unit, Planning and Design Section, described MTC's normal public participation policy, and explained the procedures followed in the case of the Detour Lake road. He said,

"The Ministry of Transportation and Communications during an 'A' category undertaking would normally have four major stages in the study. These include the 'Input Stage' when all data is collected from Provincial Agencies and the public. Normally Public Information Centres are held during that stage to inform the public what the study is about; the objectives, purpose, need and justification of the study. It is at that time that we request information from the public at Information Centres so that the Project Team can become aware of the concerns of the public, and to identify information the public may have regarding the study and information related to the area. At these first meetings local residents can also express their concerns related to the undertaking."

"The second stage in the Study is the 'Development of Alternatives' stage where a number of alternative alignments have been generated based on the engineering and environmental constraints developed during the first stage. The public at large usually make suggestions regarding routes and/or make route suggestions to the Project team."

"The third stage would be the 'Evaluation Stage'. This portion of the study includes the evaluation of the various alternatives. The normal process includes the external team component. This team evaluates the routes so as to help determine the best route which fulfills the purpose of the Project. Public Information Centres at this stage would involve centres to explain to the public at large the Project Team and the External Teams evaluation of the various routes. Included in this

process is an opportunity for the public to make their route preference known, by either questionnaires mailed out to the general public and/or allow them the opportunity to provide this information to the Project Team by other means.

"The fourth and final stage involves the 'Selection Stage' which makes an announcement of the best route. These may be meetings with the external team. The public is usually informed via information centres and/or mail-out information packages to the residents of the area.

"For this particular study the Detour Lake Access Road many of these options were not available to this Ministry. We only had four months to complete the study which usually takes 24 months and as no commitment ha[d] been made by the Mining Company as to the development of the mine site. As you are aware, the provincial government was not going to construct any access to the mine site, if the mine site was not developed when the study was initiated in early September and the consultant hired to undertake the environmental inventory of the area. A corridor evaluation had already come up with a basic corridor. This was evaluated 'inhouse' due to the short time allowed for the study. That corridor decision was based on the information available to the Ministry from the external agencies, most notably the Ministry of Natural Resources, which had the majority of the information available and obviously had the greatest knowledge of the concerns in the area. As any route would pass through the limits of Abitibi-Price Ltd., obviously the company would be concerned with any route development in the area. As a result of these concerns, the Ministry of Transportation and Communications met with the Ministry of Natural Resources and the Abitibi-Price Ltd., on Thursday, July 31st...It was as a result of that meeting, this Ministry was forwarded further information related to the outfitter Camps and the concerns of individuals in the area that may have a bearing on the study. At that meeting, the concerns of the outfitters were brought forward by the Ministry of Natural Resources as indicated in the minutes. Also the concern of the remote cottage site owners were also brought forward at that meeting. The consultant was hired during early September to undertake the environmental inventory of the corridor selected.

"It was always the intention of the Ministry of Transportation and Communications to hold a number of public meetings, related to the study and at

various times during the study. Those meetings were not to be held, until the mining company had made the decision to go ahead with the minesite. During the early stages of the study (Sept.Oct.) that decision regarding the development of the minesite was to be made weekly but was postponed weekly. As you are aware that decision was not made until January. In the meantime the project team decided that they must meet with the public at large and the information centres were scheduled for early December which you attended.

"If the Ministry of Transportation and Communications had had the luxury of additional time and the decision had been made earlier for the development of the minesite, we would have held public information centres at a number of stages related to the study. However, that luxury of additional time was not available.

"A study of this nature would normally take approximately two years, with the public participation meetings held at approximately three to four month intervals; during the input; development of alternatives; evaluation; and recommended route; stages. We feel, however, our contacts with other Ministries and the input from other Ministries related to the study provided much the same information as the public component would have provided."

From MTC's point of view, it can be seen that timing and uncertainty contrived to make any intentions of involving the public in the study difficult to fulfill. There were effectively three months to do an evaluation of the corridor that had already been chosen. There was, moreover, no firm commitment from the mining consortium; this happened only after the EA Report was completed. MTC explained that, in the face of uncertainty about the mining consortium's intentions, the Ministry withheld public involvement so as not to "unnecessarily raise public expectations regarding the road and mine site development", according to minutes of a meeting between MTC and the Commission on February 10, 1981. But then by December, when an Information Centre or public meeting was held, MTC realized that "the public program could no longer be delayed, if the public was to have viable input into the study", even though there was still no word at that time on the mining consortium's decision. What remains to be determined is how adequately the public interest was served by whatever participation or consultation that took place.

Format of Activities

The Information Centre

By early 1981, most people in the area around Cochrane knew about the proposed road. There were numerous articles in the local newspapers and regular local radio broadcasts about it, and most of these reports were unreservedly enthusiastic. By this time, the announcement had been made that the Detour Lake mine development would proceed. But only at the end of 1980 did the public have any formal opportunity to examine the proposed road alignment and consider the issues relating to it that were presented by the proponent. The formal public participation activities undertaken in this case consisted of one public meeting and a meeting between the proponent and the Cochrane Town Council. These events were held in mid-December because of continued uncertainty about whether the mine development would proceed, and thus whether the road was needed.

The Environmental Assessment Report states on page 2-15, under the heading "Public Participation",

"Due to the uncertainties of proceeding with the Detour Lake Access Road project, contacts with the public was held to a minimum until completion of the engineering and environmental feasibility studies by the mining companies involved and the completion of the collection of all environmental baseline information...Decisions related to a commitment by the company were expected in December at which time a full series of public meetings were held."

But only one Information Centre was held; the EA Report describes it as follows:

"Public meetings were held in the Legion Hall, Cochrane, at 2:00 pm and 7:00 pm on December 16th 1980. The meetings were widely publicized through the local newspapers (Northland Post, Daily Press, The Enterprise) and radio stations (CKGB). A total of approximately 200-250 persons attended these meetings."

The notice of this meeting placed in various newspapers called it the "Northeastern Ontario Access Road Study", and it read, in part,

"The Ministry of Transportation and Communications (M.T.C.) is presently involved in the Northeastern Ontario Access Road Study, which includes access

to the Detour Lake Mine. The Study had been an on-going process, with the co-operation of the other affected Ministries of the Ontario Government, to determine the most feasible and environmentally acceptable route.

"An Individual Environmental Assessment (A-Category) is presently being undertaken and will result in the submission of a formal E.A. Report to the Ministry of the Environment (M.O.E.)"

To call the road a "Northeastern Ontario Access Road" may have been misleading at this stage, for the road was going to the mine site, but the Ministry explained that this was done to avoid a suggestion that the road was a private road for the mine (it was to be an Ontario Secondary Highway). The information provided at the public meeting reinforced the emphasis on regional development which was suggested by reference to "Northeastern Ontario Access". Maps, charts and diagrams were displayed all along the walls, and most of these emphasized the potential benefits, particularly to the region, of this road, including the potential for mineral and recreational development as well as economic benefits from the mine itself. Disadvantages of the undertaking, such as loss of wilderness areas and remote recreation operations, were only briefly mentioned.

Even this formal public meeting was a rather informal affair; as the notice in the newspaper said, *"An Information Centre will be held to afford the public an opportunity for informal discussion with representatives from the Ministry."* Two officials from the Ministry of Transportation and Communications and several members of the consulting company were on hand to talk informally with the public and answer questions. MTC defends this approach with the following rationale:

"The M.T.C. has found that information centers as opposed to open public meetings have provided a much better format for discussing the study with the individual and his particular concerns of the area. This is a result of comments received over a number of years that people would rather discuss their concerns on an individual basis as it affects their property as well as the general apprehension about speaking in large public forums. Obviously the concerns of the individual are more directed to the impacts of their property than the study at large. Also this Ministry has found that large, open forum public meetings tend to be dominated by a number of individuals rather than the audience at large participating."

The reasonableness of this approach was hampered in this case by three factors: there was only one information centre; it was held late in the study; and the proposed route was already selected.

The notice in the newspaper of the meeting stated at the end that *"plans indicating the selected route will be on display"*. At this point, then, a route had been chosen, and the public was invited to see where the road would go and to comment on it. At the meeting, a large map showing the selected route was prominently displayed on a table in the centre of the room. A small map on the wall showed the four originally proposed possible routes. The public, therefore, was not seriously encouraged to examine alternative routes, or in other words, to be involved in the selection process. It is questionable, moreover, whether any major or even minor realignments in the selected route could have been accommodated at this late stage in the planning process if any public objections had been raised.

Furthermore, none of the display material indicated that this information was being gathered as part of an environmental assessment under the EA Act, or what the EA process entailed. Except for what was mentioned in the newspaper notice of the meeting, the public knew only that a study was being done on environmental effects of a "government road". No mention was made of the EA Act or the public's role in the EA process, of which this meeting was a part. In fairness to the MTC officials and consultants, it was not strictly their responsibility. But that left the public unaware of its rights and participant role under the EA Act.

Contacts with the Public

Other meetings were held by MTC in Cochrane on the day before the Information Centre: the meeting with government representatives discussed in the previous section, and a meeting with the Cochrane Town Council. The EA Report says,

"Meetings with the Cochrane Town Council were held at 7:00 pm on December 15 1980 and a presentation of the socio-economic and natural environmental components of the study was made. The Council endorsed a motion in support of the project."

It appears that the greatest proportion of public participation activities were undertaken informally through a series of "informal contacts" made by the consultants and MTC officials. This was done through a considerable amount of correspondence, and resulting informal meetings, between MTC officials or consultants and concerned groups or individuals. The EA Report explains these informal activities as follows:

"Prior to public meetings, contacts were made with knowledgeable individuals in the region, for the purposes of identifying information sources and examining concerns related to the road development. As a result of these contacts, meetings and discussions were held with remote cottage owners and outpost operators. Specific meetings were held in Timmins between the consultants, outpost operators and the Ministry of Industry and Tourism (21st November 1980). This meeting was followed up by further discussions."

The extent and nature of these 'informal contacts' cannot be ascertained from such a description, and no record of these was provided by the consultants. The company's president said that he and his staff contacted about "twenty or thirty" people in Cochrane, Iroquois Falls and Timmins who had particular kinds of expertise or information, and who were referred to the consultants by the Ministry of Transportation and Communications and the Ministry of Natural Resources.

Further contacts, according to the EA Report, were as follows:

*"Discussions have been held with local Board of Trades, with the Royal Commission on the Northern Environment and with Treaty 9. Informal contacts made with Treaty 9 have been made relating to providing them with information gathered during the study and soliciting their assistance in several areas have been made. Discussions with Treaty 9 are continuing."**

According to the minutes of a meeting between the Ministry of Transportation and Communications and the Commission in February 1981,

"[Research Director] was contacted to determine the concerns of native people. Treaty #9 Grand Council were aware of the ongoing study. Their major concerns at the time were related to employment opportunities for native people during road construction and at the mine site."

* "Treaty 9" refers to Grand Council Treaty #9, a political organization of Indian Chiefs representing the Indian people in Northern Ontario affected by Treaty #9. The treaty was signed in 1905, with adhesions made in 1930 that included in the treaty area the northern part of the province roughly north of the 50th parallel.

Both the consulting company president and the Council's research director confirmed that they had had a conversation on the telephone. The consultant maintained that the option was always open to the Council to ask for meetings or further information; the Council has provided no official word on this matter.

Summary of Activities

According to the same letter by an MTC official that was quoted earlier, this is how informal consultation with the public was carried out by the Ministry of Transportation and Communications and its consultants:

"a) Outfitters

The two main Outfitting operations in the area... were contacted at various stages through the project via correspondence, telephone conversations and meetings, as well as via other Ministries. I personally spoke with [the two outfitters] during October, related to the study and to determine if they would like to meet with the project team. I explained at that time that the Ministry of Natural Resources had already made us well aware of the concerns of the Outfitters as illustrated in attachments;

- 1) M.T.C./M.N.R. meeting Thursday, July 1st, 1980;*
- 2) E.A.G./M.N.R. meeting, September 26, 1980;*
- 3) M.N.R. concerns to M.T.C. October 7, 1980. It was as a result of that phone discussion with [the outfitters] that they requested a meeting with the consultant - Environmental Applications Group. That meeting took place in Timmins, November 21, 1980. Correspondence related to that meeting are attached;*
- 4) E.A.G./[outfitter] meeting November 21, 1980;*
- 5) E.A.G./[outfitter], November 21, 1980;*
- 6) E.A.G./M.I.T. correspondence November 24, 1980;*
- 7) M.I.T./E.A.G. letter of November 21, 1980. That meeting took most of the day and many points were discussed at that meeting which was outlined in the minutes of the meeting and correspondence attached.*

"This Ministry has also dealt with, and supplied information to the Outfitters via correspondence

and meetings, related to various organizations such as the N.O.T.O. organization and as a result of those organizations contact by various agencies and/or groups, correspondence related to this is attached;

- 8) Cochrane Board of Trade - Letter of November 17, 1980;
- 9) N.O.T.O. letter to [Provincial Secretary for Resources Development] October 20, 1980;
- 10) [Provincial Secretary for Resources Development]/[Regional Director, MTC, Northern Region] correspondence November 5, 1980;
- 11) [Provincial Secretary for Resources Development]/[Regional Director, MTC, Northern Region] correspondence November 14, 1980. As a result of correspondence, I spoke with...the Regional Manager for Northern Ontario Tourist Outfitters Association at length on the telephone to discuss the project and the concerns of the Outfitters. I explained what the Ministry of Transportation and Communications had done in the way of alignment changes to that stage and the methods employed.

"...there was also a meeting subsequent to the submission of the Environmental Assessment Report copies of which were forwarded to [the outfitters] as per their requests.

"Meetings were held with the Northern Ontario Tourist Association concerning the impacts to the Outfitters Camps....

"...I spoke on the phone on two occasions with [Executive Director, NOTO, 1981] regarding the study previous to the meeting of the 11th February to discuss the N.O.T.O. concerns and the Outfitter's concern. [Executive Director] also came over and picked up a copy of the Environmental Assessment Report and we discussed the project, at length. Subsequent to that meeting we have reviewed the routes which the N.O.T.O. organization suggested and completed a benefit/cost analysis of those alternatives. Their suggestions were rejected as a result of higher costs and unsuitable engineering terrain, and no significant differences in environmental socio-economic benefits.

"We feel that with the number of meetings held with the Tourist Outfitters, the information supplied and the analysis of the options at the early

stages of the study, and those requested at the special meetings which were evaluated and documented in the Environmental Assessment Report, and those further options requested as a result of the meeting of February 15th, that we have adequately addressed the concerns of the outfitters and made as many changes in the alignment as are feasible. We feel we have given them every opportunity to participate in the study that they have requested, and feel that this area of public involvement had been adequately covered in the Environmental Assessment and in the study. This is also the feeling of some of the organizations and/or outside agencies contacted on behalf of the Outfitters.

"b) Native people

...[the] president of Environmental Applications Group Ltd., has met with Treaty #9 on a number of occasions regarding various studies being carried out in Northeastern Ontario. These include the Onakawana Lignite Study as well as field studies related to undertakings in Northeastern Ontario such as the Detour Lake site, and the work he is carrying out for the Mining Consortium. In relation to the road study, [President, EAG Ltd.] contacted...Research Officer for Treaty #9, to discuss the study. Those discussions on the phone with [Research Officer] were made to ascertain whether they required copies of any of the information being developed for the study and whether a meeting was necessary with Treaty #9. This point was discussed with [President, EAG Ltd.] on the phone, as a result of your request, [President, EAG Ltd.] informed me that [Research Officer] was concerned about employment opportunities in relation to the road development and the mining site. It was not felt at that time that a meeting with Treaty #9 was necessary. [President, EAG Ltd.] reports that the option of a meeting was left up to [Research Officer] and Treaty #9, and if they requested a meeting, a meeting would be held with Treaty #9. No such request has been forthcoming. Perhaps this stage should have been better documented, but unfortunately with the time frame of the study, a number of points like this regarding the study were overlooked as a result of the time frame allowed.

"c) Local People Knowledgeable About The Area

The consultant met with a number of people in the area to develop local information about the area. A number of people supplied information about the

area, notably [three]. The information provided by these gentlemen can be found in Section 3.8.3 of the Environmental Assessment Report. Other individuals in the area include [three]. No minutes of meetings with these individuals were recorded. The information supplied to them just further improved the consultant's knowledge and information of the area. Other individuals which provided information to the study include [remote cottage owners]... These people were contacted as a result of their letter to the consultants to get clarification as to their site location and their particular concerns, and to provide information appropriate to comments made in their letters...[conservationist] was contacted by the consultant to obtain further information which he may have related to the study and to discuss his concerns as listed in the correspondence. These discussions in many cases were informal and not documented. It did, however, provide the consultant with much of the needed local impression of the area and their perceived need for the study.

"d) Local Trappers

A number of the local trappers were contacted during the study, some were contacted on our behalf via the Ministry of Natural Resources. The most significant input received from any of the local trappers was by [local trapper] as outlined above in Section C. Most of the comments supplied by other local trappers were on an informal basis and/or via meeting with the Ministry of Natural Resources, and their discussions with the Fish and Wildlife Staff of the Ministry of Natural Resources.

"e) Remote Cottage Sites

The Ministry of Natural Resources supplied a list of remote cottage owners which could be affected by the road...A letter was sent to all individuals on that list, explaining that the study was underway and that alignment was being developed for the road study and if they were unable to attend the public meeting they could contact the Ministry for the appropriate information. Two of the remote cottage owners contacted this Ministry. [They] wrote on December 27th. I then contacted [them] by phone and discussed the road study, their cottage site and the alignments in the vicinity of their cottage. A roll plan of the recommended route was forwarded to [them]. They acknowledged receipt of that information and those discussions ...[remote cottage owner] also contacted this Ministry

regarding the study. A similar discussion took place with [him] regarding the site of his remote cottage and the possible impacts of the alignment on his remote cottage site. [He] was also forwarded a copy of the alignment.

"A number of the remote cottage owners attended the information meeting...I personally discussed the alignment with those property owners at the information centres, a number of other remote cottage site owners discussed their locations with other members of the Ministry or the consultant's staff. The project has been discussed with the majority of the owners."

That, according to MTC, is what happened. The nature of the public's response and its opportunities to respond are examined next.

Opportunities for Public Comment

Public Satisfaction

What did the people in the area affected by the proposed road think of the opportunities available for the public's involvement in the decision-making process as represented by the environmental assessment procedures? It is important to distinguish people's attitudes to the project itself and the level of their satisfaction with the public activities that were undertaken in this case. It is no surprise to anyone who is familiar with the public and press reactions to the project in the Cochrane area that there is a high degree of support for it; because of its potential economic benefits, this is understandable and to be expected. The issue of public input into the decision-making process was of little importance to the people already in favour of the project, both road and mine. But there were others whose personal interests led them to feel differently.

Opinions on the acceptability of the public program for the Detour Lake road study range fully across the spectrum of satisfaction. Perhaps the strongest endorsement of the public participation component of the study comes from the Cochrane Board of Trade, a group that has no small interest in seeing the development proceed. There is no record of this group meeting formally with either MTC or the consultants. Their letter to the Commission on this subject, dated February 10, 1981, says,

"Kindly be advised that the Cochrane Board of Trade is of the opinion that there has been sufficient publicity and input into the environmental study on the Detour Lake road project presently under construction.

"We anticipate that the environmental study will be finalized soon and that construction of the road will commence at the earliest possible date."

Most people in the area, in fact, were strongly in support of the proposed road, as these comments, recorded in the guest book at the Information Centre in Cochrane, indicate:

"This road will be of benefit to all."

"Why the excessive, it appears, benefits to Timmins at the expense of Iroquois Falls-Cochrane?"

"Very much needed work and jobs for area outreach environment impact."

"Good presentation."

"The development of mine would be of great importance to Cochrane area for economic and recreation development."

"Favourable location of road will be of benefit to Cochrane and Iroquois Falls."

"Good location--keep up the progress."

"I feel the community needs this project if it wants to survive. The creating of jobs should have priority over 'wildlife' and tourists."

"Extremely important community development."

"Hope to see access road completed at the earliest date."

"Opens up country for all uses."

"Looks like a good compromise among the interests involved."

"Development is badly needed from an economic view. Full speed ahead."

"Cottage lots for sale in area--not leases."

"This area needs the project, not just for economic reasons, but the need for new blood, to stimulate our intellectual, emotional needs. Try not to harm the environmental aspect too much!"

"Happy about the whole project. We have all waited so long."

"Good presentation."

Only the following comments were not completely supportive of the road project:

"Not enough local input in initial stages."

"No consideration given or no discussion with remote cottagers who have developed their sites--what other alternatives do we have to recover loss and gain a new site? Many will suffer losses including outfitters."

"Great care and consideration must be given to preserve as much as possible in its natural state."

"I hope the MNR and Abitibi Price Co. heed the environmental advice."

The consulting company forwarded these comments to MTC, who pointed out that these *"should give some impression of the concurrence [with the project]...expressed by the individuals who attended"* the Information Centre. Despite the widespread support for the project in the Cochrane area, a small number of people indicated some concern about the natural environment and about public input into the assessment study of the proposed project. These concerns came together in a single broad issue: the wilderness issue.

The Wilderness Issue

The main opposition to the project, or at least to certain aspects of the project, centred on the issue of wilderness tourism and recreation. This issue was represented, in its various manifestations, by three distinct groups of local people: two outpost camp operators, a group of conservationists, and to a lesser extent, some remote cottage owners (Figure 7). None of them objected to the road itself, but wanted certain conditions relating to wilderness issues to be acknowledged. And their satisfaction with the way their concerns were treated by the authorities ranged from one extreme to the other.

One outfitter explained his concern this way at the December 16, 1980 Information Centre in Cochrane:

"We don't object to the road to Detour Lake. What we do object to is destroying one industry to start another. Tourism is the second largest industry in Canada, you know, and it's getting bigger."

"I just talked to [the consultant] and talked to MTC, and MTC said it's too bad that some people have to get hurt if a new road goes in. Nobody has control over the mine but the government has control over lakes and rivers and they should show some consideration for industry there, but so far they don't seem to be listening."

"I think MTC should bend a little bit; we're not against the road. I would like a bend made around Kattawagami. That Onakawana is a big thing, but

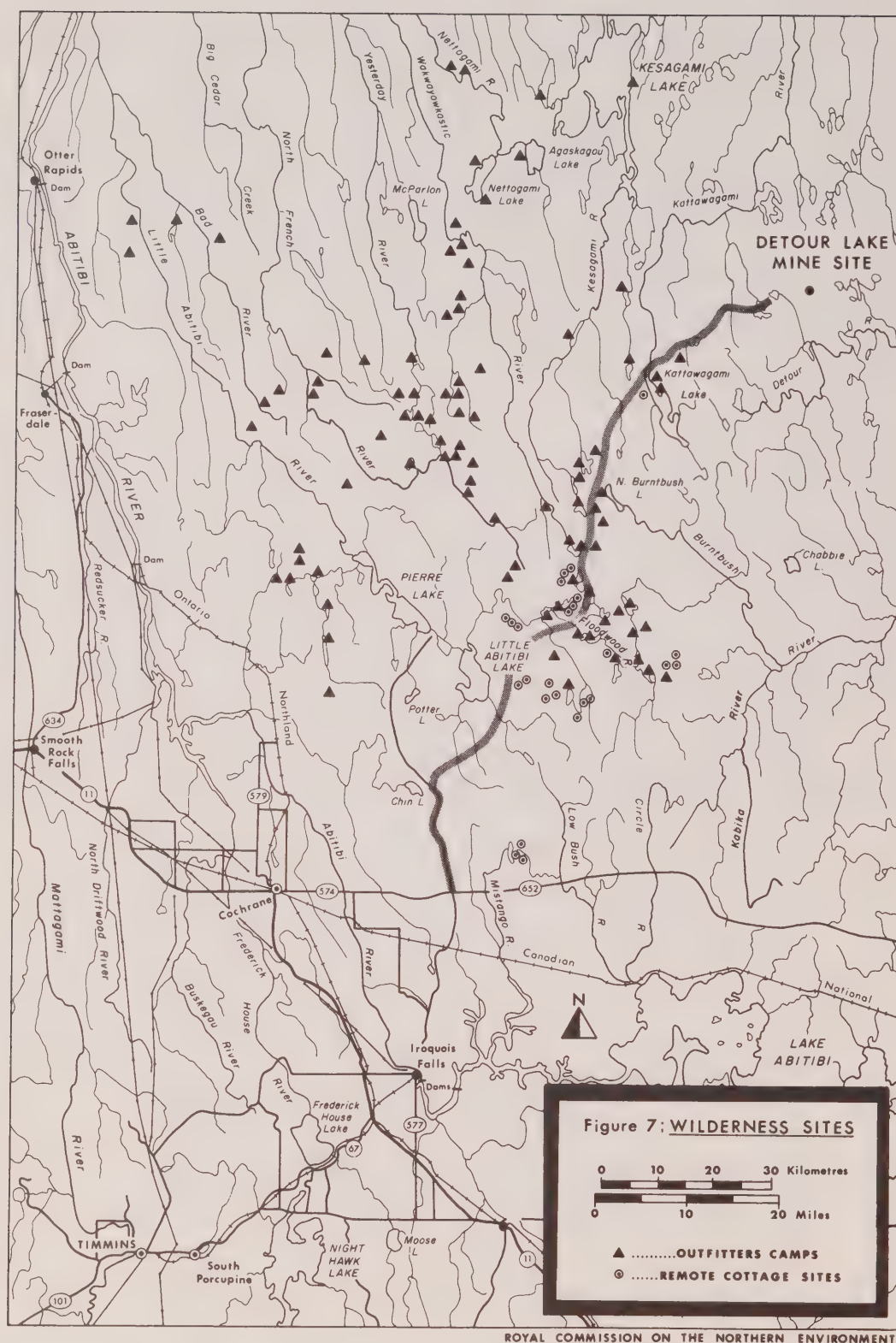




Photo 5; Site of remote cottage, Shirley Lake, Tweed Township, photographed September 1981.

*they're going about it in a different way, having meetings and involving the public."**

Of his twenty-six camps, six would be affected by the road. His colleague, who has forty-nine camps, of which ten would be affected,

* The proposed Onakawana development, based on a lignite (low-grade coal) deposit about 16 miles south of Moosonee, would consist of a coal strip-mine to be operated by Onakawana Development Ltd. and a thermal electric generating station under the control of Ontario Hydro.



Photo 6; Close view of remote cottage, Shirley Lake, Tweed Township, photographed September 1981.

complained, *"There was no consultation with us at all until the decisions were all made."*

The group of conservationists, through a spokesman, expressed their concern about the Floodwood River area being preserved for recreation uses, but with the same qualified approval for the road as the outfitters: in general, they supported the road project, but with reservations. A spokesman for the group explained it this way:

"I don't think you can really say you can't build a road here or you can't build a road there. Some sort of development of the natural resources is

bound to happen. It can only be good for this part of the population, but I can't see why they can't block off areas as natural parks or recreation areas. I used to talk to [remote cottage owner] a lot. He used to say they should make the whole watershed in that area into some sort of recreation area, natural park, because it's unique, it's specific. All the waters drain into the Abitibi, the Floodwood Lake--it's beautiful country. It's esker country, perfect canoeing, and there's a big resource in tourism right there. But they won't be there."

It would seem that the conservationist's point was properly a matter for the Ministry of Natural Resources, although it was brought to light by a particular proposed project that required an environmental assessment. How or if the matter was resolved is not known, but the conservationists' spokesman made an effort to bring the issue to the attention of the Provincial Secretary for Resources Development in a letter in which he said,

"...a new road is being built to Detour Lake to assist in the development of the gold mines in that area. This road passes within four miles of the Floodwood River system, in particular the region of Baker Lake and a lake to the southeast known as Eagle Lake. For some years now, these two areas and the areas to the northeast have been the mainstay of many of the outfitters working out of Cochrane. Also, several of the lakes immediately to the southeast of Baker Lake in Tweed County have been leased to people for remote campsites.

"It has come to my attention that the Abitibi Company is proposing to build spur roads in to this area for the purposes of harvesting the wood.

"This is a first-class recreational area, in particular there are many species of animals which do not normally flourish but are making a come-back in the area....

"There are many people interested in preserving this area as a recreational area. I am speaking from Little Abitibi Lake, up the Floodwood River, to Baker Lake, south Floodwood River, and Tweed Lake, all of this area, which is included mostly in Tweed County.

"I wonder if the Ministry would consider some sort of special protection for this area, that is, for example, a moratorium on any cutting within four miles of the Floodwood River."

The spokesman said he wanted to speak to the Provincial Secretary for Resources Development about this, and met with him about a week later. The Provincial Secretary forwarded these concerns to the Ministry of Transportation and Communications; what MTC did about the matter is not known.

Remote cottage owners were another group affected by the proposed alignment. One of these people wrote a letter to the Provincial Secretary for Resources Development in which he expressed concern that the new road *"up to the Mine at Detour Lake"* would *"greatly hurt the Outfitters"* and would mean that *"remote cottages would no longer be remote"*. He asked, *"Would it be possible for this road to be built farther to the east to eliminate this situation?"* The Provincial Secretary for Resources Development replied with assurances that *"the road location will be reviewed bearing in mind the need to maintain the outpost camps as a viable industry in Northeastern Ontario"*.

According to the Ministry of Transportation and Communications, a letter explaining the situation was sent to all remote cottage owners, on the basis of a list provided by the Ministry of Natural Resources, and only two cottage owners wrote to ask for further information on the road study and the Cochrane information centre. Both received the information and a map, and were assured by MTC that, as was apparent on the map, *"there is a reasonable buffer between the road and the lake your cottage is situated on"*. This pleased at least one of the owners, who wrote,

"I received your letter and the map showing the plan of the recommended alignment for the Detour Lake Access Road. I appreciate you sending me such a detailed map. I am happy with the buffer between the road and my remote cottage."

"I wish to thank you Mr.---, ---, [MTC] and --- [consultant] for being so prompt and considerate in answering our concerns."

"I realize you have done much work to try to keep people happy."

In this case, at least, the concern about wilderness preservation was accommodated to the extent that the individuals raising the issue were satisfied. The same was not true in the case of the tourist camp outfitters.

The Outfitters: What Happened

A number of outpost camp operators actively pursued their own interest in having the road alignment moved further away from some of

their camps. A local official of the Ministry of Natural Resources provided one version of what happened. He explained that the outfitters were "more than annoyed" at the Ministry of Transportation and Communications for not consulting with them before the alignment was chosen, and particularly in response to letters they had sent about their concerns. They "showed their annoyance", he said, by

- "1. Enlisting the support of the Cochrane Board of Trade
2. Contacting [Provincial Secretary for Resources Development]
3. Contacting [MNR] Minister at the NOTO [Northern Ontario Tourist Outfitters] convention
4. Having NOTO write to [Secretary for Resources Development] on their behalf
5. Contacting the local MIT [Ministry of Industry and Tourism] representative
6. Meeting with [MNR] at the District

"[MNR] wrote MTC, North Bay, requesting, on their behalf, a meeting. This took place in the MIT office in Timmins with the consultant on November 21 [1980]...meeting with the 'hired guns' was not too satisfactory to the outfitters, as they wished to present their case direct to those making the route location decision."

The correspondence that took place in the autumn of 1980 provides some evidence of the extent to which the concerns of the outfitters were made known to and acknowledged by authorities. In a letter to the Provincial Secretary for Resources Development on October 22, 1980, the outfitters pointed out to him that the road would go through the only group of lakes in the Cochrane area which can offer remote fishing, and that several million dollars are invested in buildings and equipment by the tourist industry in the area. To underline their concerns they stressed that tourism was the second largest industry in Ontario. In conclusion, they proposed another alignment. The Provincial Secretary for Resources Development acknowledged their concerns and said he would *"review the suggested road routes and their proximity to outpost camps as [he could] appreciate the concerns [the outfitters] expressed"*.

The outfitters also enlisted the help of the Northern Ontario Tourist Outfitters Association in presenting their case. In a letter to the Provincial Secretary for Resources Development in October 1980, NOTO pointed out that the proposed road *"was planned without consultation"*, and that *"one third of the commercial outpost permits in the Cochrane Region will be adversely affected by this proposed routing"*. They went on to say,

"There is no need to explain the value of tourism to Ontario's economy, and the jobs and income it provides directly to the residents of the Cochrane area. If M.T.C.'s proposed routing is allowed to proceed, not only will it have a devastating effect on those operators with outpost permits in the area, but it will cause every entrepreneur to take a long, hard look before investing any further in the tourism economy of the Cochrane area."

NOTO asked the Provincial Secretary for Resources Development to *"use the route extending the existing road"*, an all-weather road used for logging operations.

The Provincial Secretary for Resources Development duly reported these concerns to MTC's Regional Director in early November. He indicated his support for an access road being the most economical route, but expressed *"concern for the viable and unhindered operation of tourist camps in the area"*, and that *"the road should be located to do a minimum of disruption to outpost camps"*. He then responded to both the outfitters and NOTO, pointing out that he had *"alerted"* the Ministry of Transportation and Communications and the Ministry of Northern Affairs of their concerns. In February 1981, NOTO had a meeting with MTC to discuss the feasibility of NOTO's suggested route alternatives.

In November 1980, the Cochrane Board of Trade also advised the Provincial Secretary for Resources Development of their concern about the outpost camps being affected by the proposed road. The letter began by expressing support for the road project, but went on to say,

"It is our understanding that of the several routes being considered, preference has been expressed for a route that will traverse an area which is studded with well-stocked fishing lakes and probably is the only remaining section of this part of Northeastern Ontario suitable for the continuation of a viable tourist outfitter industry featuring outpost camps in a wilderness setting."

"Therefore it is respectfully requested that consideration be given to the alternate route under study, which would not have a detrimental effect on the local tourist outfitter industry. [We] might add that this industry is of considerable economic benefit to the Town of Cochrane and area."

The Board added that *"the suitability of the terrain for road construction and the comparable economic costs must also be considered in the total context"*. The Provincial Secretary acknowledged these concerns and noted that he had drawn them to the attention of the Ministry of Transportation and Communications and the Ministry of Northern Affairs, adding that he was aware of potential damage to the tourist industry of such a road, and would take steps to minimize such a development. It appears that on the basis of the information available to him at that stage, the Provincial Secretary for Resources Development was confident that the environmental assessment process would accommodate these concerns. He told the outfitters in a letter that *"a public hearing would likely be held, at which time those interested in the route would be able to express their objections"*.

Meanwhile, the Ministry of Natural Resources was expressing its own concerns about the route location, and as already mentioned, had prepared an extensive report on this for the Ministry of Transportation and Communications. MTC's Project Manager responded to these concerns point by point and gave reasons for any divergent views, adding, *"The impact on fly-in camp operators is regrettable but some individuals will unavoidably be adversely affected by enterprises of this magnitude."* The outfitters still had not met with MTC at this point--early November 1980. MNR wrote a letter on their behalf to MTC, pointing out that the outfitters

"...were quite upset that they had not been contacted by either [MTC] staff and/or [MTC] environmental consultants. From their point of view, the proposed road would have a profound negative effect on their businesses. Consequently they feel they should have an opportunity to input on the final location. They emphasized they were not against access to the mine, but would like an opportunity to co-exist with the development."

"They are prepared to provide [MTC] consultants or [the] Ministry with up-to-date cost figures from their outposts as well as local knowledge of the area. [We] have the impression that they are quite willing to participate and co-operate in this exercise and would welcome contact by [MTC] staff or consultants."

A meeting was arranged between the outfitters, the consultant and a Ministry of Industry and Tourism representative on November 21, 1980. The MIT representative said in a letter to the consultant on the same day,

"It was very gratifying to find out both you and MTC have taken into consideration the concerns of the two tourist outpost camp operators who have

thirty L.U.P.'s [Land Use Permits] in the area of the proposed road. The constant route changes you had to consider to meet the demands from various sectors is an indication you are open to logical proposals."

He then specified other points of concern from MIT's point of view, adding some suggestions, such as parking prohibitions, which he said *"should keep the tourist outfitters happy"*. The consultant replied to MIT,

"The interests of these two operators will be seriously included in our impact analysis and in the final route selection, however, we have to examine utilization of the fisheries and other resources of the region in a wider context including the possibility of increased day and tourist uses of the lakes for multiple-use recreation. The Tweed Lakes especially in conjunction with the Pierre-Montreuil Lakes Park Reserve could provide an important source of tourist-generated revenues for the region. All facets of the problem will be considered within our report but emphasis would be placed on the existing situation."

The outfitters' concerns were certainly acknowledged in the environmental assessment study and by various authorities involved in the proposed undertaking. What cannot be determined, however, is the extent to which these concerns were considered in the process of reaching a decision on the road alignment. According to the way the EA process is meant to operate, the outfitters' concern about the alignment location is only one of many factors to be considered in the trading-off procedure that leads to a decision on the undertaking which is finally proposed, in this case, the final route location.

Weighing Factors in the Assessment

The consulting company's task, in fulfilling the requirements of the environmental assessment process, was to take into account many diverse factors, including the interests of wilderness tourism, in arriving at a recommendation on the final route location, as the company president explained in a letter to one of the outfitters:

"...we have to date weighed all environmental concerns and issues together in order to arrive at the alignment causing least impact on all natural resources. Amongst the twenty or so concerns that we have considered as important are the following:

1. *Protection wherever possible of the interests of local outfitters operating fly-in camps in the area*
2. *Protection of all known or suspected archaeological and historical sites*
3. *Protection of existing fisheries*
4. *Protection of moose, caribou and other big game habitats*
5. *Access to potential parks areas*
6. *Consideration of the location of all remote cottages/cabins during alignment section."*

He added that as a result of the outfitters' strong representation, their concerns would be *"one of the two or three most important concerns"* considered in the impact analysis. He said he intended to undertake *"a major terrain evaluation"* of the route changes requested by the outfitters in order to determine their *"environmental feasibility"*. *"I feel certain,"* he concluded, *"that all of these changes can be included in the final design."*

The consulting company president said much the same thing in a letter to the other outfitter, but added other points to be considered. He presented another side of the tourism issue by noting that *"limited road access to at least some of these lakes would increase tourism in the area and enhance Cochrane's role as a centre for tourism in Northeastern Ontario"*. He qualified his acknowledgement of the outfitters' concern by explaining that *"the major alignment changes that [the outfitters] requested be considered are more difficult because they involve traversing large tracts of muskeg, normally unsuitable for extensive road building"*, but said he had started studies *"to determine their environmental feasibility"*.

The road alignment suggested in the EA Report did not please the outfitters, since no changes in the preferred alignment, selected in late 1980, were made to accommodate their interests. The outfitters, however, had recourse to another procedure for having their concerns addressed: the mandatory 30-day minimum period for public scrutiny of the EA document and the government review of it, with the opportunity for members of the public to request an Environmental Assessment Board hearing.

In the first week of January 1981, the Provincial Secretary for Resources Development responded to the outfitters' continued dissatisfaction about the route with a letter explaining the EA process and suggesting that the EA process would be able to accommodate the outfitters' concerns. He said in part,

"...the Ministry of the Environment expect that the outfitter's concerns will be taken into account by M.T.C. in their environmental assessment presently being prepared and to be submitted to them early in 1981. The environmental assessment process encourages the integration of public concerns during the assessment process rather than awaiting reaction at a later stage. The outfitters will be able to examine the government review to determine whether their concerns are adequately reflected and treated in the assessment, and make any submissions they may wish during the 30 days following the publication of the review. Of course, you will have an opportunity to review the study, and conclusions. It is only after this point in the review process that a decision on the next step will be made; to call for a public hearing or approve or disapprove the project without a hearing."

This summary, said the Provincial Secretary, explained *"the way in which the environmental assessment process will take account of the different viewpoints involved"*.

While the EA Report was under review by the Ministry of the Environment, the Provincial Secretary for Resources Development advised the Minister of the Environment, at the end of February 1981, that he was "satisfied" that the proposed road would *"not adversely affect either the environment or the tourist camp operators, both of whom have camps outside the proposed road right-of-way"*. He felt that the EA Report had *"dealt exhaustively with the concerns expressed by the camp operators"*. His conclusion was this: *"There isn't a cost effective alternative available to reduce the number of camps affected and on this basis I don't think we should spend more time on an Environmental Assessment Board Hearing."*

In this case, no official government review of the EA document was done, the document had to be withdrawn, and then the whole project was exempted from the requirements of the EA Act. So, no opportunity was provided for the public to examine and comment on the final EA Report. The outfitters had little chance to express informed opposition to the alignment by demanding that a hearing be held. And the public at large did not have the information that would have presented the factors considered, explained the evaluations made, and given reasons for the decisions reached.

Some Problems

The Process and the Public

Few people in Northern Ontario would disagree with the view that the public which is affected by development decisions should have its concerns seriously considered in such decisions. The EA Act is only one decision-making mechanism through which such initiatives are undertaken. It can, however, provide the public a means of access to an accounting of how and why those decisions were reached.

The appropriateness of public involvement in decision-making is acknowledged by public and government groups alike. The Government, for example, has always recognized the value of enjoying public approval of its actions and public confidence in the way it serves the public interest. As a demonstration of this attitude, the public's role in the environmental assessment process is expressly stipulated in the EA Act, although this opportunity is compulsory only at the end of the assessment review procedures, when the EA document and review of it are available for public scrutiny and comment.

However, recognizing the importance of the public's role in decision-making addresses only part of the issue. The means of implementing this objective--the actual mechanisms and timing and degree of public involvement--can often remain undefined and can present problems. This is what has to be resolved and made effective if the goal of involving people in decisions that affect them is to be made workable.

This discussion has outlined how the EA process--with particular reference to the public's role in it--is supposed to work, and how it did work in this case. Certain problems in both the ideal and the actual process were identified by some members of the public in the affected area. And these problems were seen to arise at all stages of the EA process.

Public Awareness

The first difficulty that came to light was poor public awareness of this proposed project in its initial stages. A local official of the Ministry of Natural Resources explained this problem and its consequences:

"I think what annoyed some of these people...is... not so much that the road's going up there--they more or less accept the fact that forestry roads are gonna go north, mining roads and so on. I think they felt that someone was trying to slip one by them..."

"I think the timing may have been a little out... and when I say timing I mean that once you start a project like this in a small northern community, it immediately becomes public knowledge. So you might as well face the fact--put the...thing out in front of the public so they can have a look at it. If you try not commenting...you just create more grief for yourself in the long run."

Although he sympathized with the consultants' time constraints, the official gave an example of the problem. He received a letter inquiring about the project from a member of the public who was clearly "not in possession of all the facts". "And...anyway," said the MNR official, "that's the sort of thing that...involvement...might help". The person who wrote the letter was fishing when helicopters flew over: "We wondered what the helicopters were doing--they kept coming back and going over. We were on the Floodwood River at the time and we checked into it and we heard that they were surveying the new road to Detour Lake."

Considering Public Concerns

Once the project became known in the area, there were further problems identified in the procedures for public input into the assessment study and planning for the road. A local conservationist said he discussed a number of points with the government officials and consultants at the Information Centre in Cochrane, but he had this to say about it:

"...we did bring a lot of things to their attention and they said that they would pay heed to it ...the guy I was talking to was very interested and very knowledgeable. I feel sure that the information went back to them, but whether anyone will pay attention to it or not I don't feel at all sure..."

"I got the strong impression that the map was down there and this was it, and any argument I had against where it went was kind of 'you don't know what you're talking about'...he could out-argue me because he was a specialist in the field--but he hasn't lived there."

At this point, the public has no assurances that the information provided from public sources to the authorities will be seriously considered, or considered at all. Of course, the public has the option of examining the EA Report in the minimum thirty days provided for public scrutiny and comment. But even this procedure can present difficulties.

The Public and the Act

Making public concerns readily identifiable in the EA process is effective to the extent that the public is aware of environmental assessment procedures as part of the decision-making process, and of its own chance to examine relevant issues as reflected in the EA document for a particular project. But how many people know about the Act? The conservationist was not aware of it, nor of the need for and nature of an EA document, or what it required.

But even for those who are aware of the Act and the EA process, there is another difficulty, as pointed out by the conservationist. When it was explained to him that the public could check over the document and the government review of it in a minimum thirty-day period after they were released, he expressed surprise.

"The public couldn't possibly check it over in thirty days, could they, if it's the size of a document you're saying...and not only that, you'd have to understand the terms and everything that went with it, and if you wanted to make a presentation of some kind it takes you a lot longer than thirty days to make it. So I don't think that's practical at all, if they were really interested. You have to feel that they're not really interested because they're making it tough for anybody to say anything."

Local concerns in the case of this environmental assessment were deflected on the grounds that the public would have an opportunity to review and comment on the EA document, and the government review of it. But, as this man wonders, even if the public can understand what is often a large, technical document, is this procedure practical?

This raises another point. Essentially, the EA document contains issues of concern to a regulatory agency, the Ministry of the Environment. But it is possible that these issues are different from concerns the public might have about a project, although any such public concerns are meant to be identified in the EA process carried out by the proponent. Perhaps if an EA document were less daunting in size and more pertinent to the issues under consideration, the public might have a more useful role to play in the process, and people like the conservationist not so wary of commenting on the document.

And how accessible is the EA Report to the public in any case? Notice of the report is given in local newspapers and a copy is placed in local libraries. How practical is this for providing information to the public on the project and the decision to be made?

Although the EA Act provides for public review of the EA document specifically in order to allow for opposition to a project to be voiced, and for possible modifications to be incorporated, it may be that this is not the stage when public comment could be most effective. At this point, the project planning may carry a momentum that makes the initiation of major, if not minor changes an unlikely possibility. As the Detour Lake case demonstrates, that momentum, or certain deadlines, can put pressure on the EA process to the extent that the entire project is simply exempted from any further requirements of the EA Act.

Exemptions

When the Ministry of Northern Affairs issued the news release of January 23, 1981, announcing the awarding of a contract to "begin construction" of the Detour Lake Road, Grand Council Treaty #9, representing the Indian people living roughly north of the 50th parallel in Northern Ontario, immediately raised an objection. On February 9, 1981, the Grand Council sent telexes to both the Royal Commission on the Northern Environment and the Premier expressing its dissatisfaction with the announcement. The Ontario Metis and Non-Status Indian Association also sent similar telexes objecting to this action. In addition to pointing out that the Act had not been proven effective up to that point, and objecting to the fact that the mine was not designated as subject to the EA Act, Grand Council Treaty #9 made this point about the EA process:

"The Province of Ontario is in breach of its own legislation by virtue of the...announcement of the granting of contracts for the building of the access road prior to the 30 day public notice based on the assumption that there was no obvious opposition to the project. As such, the Province of Ontario is guilty of gross arrogance and by its action, has clearly established that the Environmental Assessment Act and process is a sham and only serves to better the interests of both the government and the developer."

The Government of Ontario answered that the contract was for clearing only, and that although the Ministry of the Environment had granted an exemption for this purpose, full-scale work on the project could not begin until official approval had been granted by MOE according to the EA Act. But the impression of "arrogance" on the Government's part was already firm in the Grand Council's view of the situation, as well as a perception of the Environmental Assessment Act and process as a "sham".

The second exemption granted a number of months later for the entire project only reinforced this impression of the EA process on the part of the Grand Council. It issued a press release that declared in

no uncertain terms how the Grand Council viewed the EA Act and process. *"Stop the hypocrisy, scrap the Environmental Assessment Act,"* the announcement began. The first part of the press release read as follows:

"Grand Chief Wally McKay today challenged the Ontario Government to repeal the Environmental Assessment Act.

"The Davis Government is manipulating the assessment process to meet its own political ends' said McKay, in response to the recently announced exemption of the Detour Lake access road from the Environmental Assessment Act.

"It's sheer hypocrisy to have an act and not to apply it. Ontario has notoriously abandoned the environment by allowing such projects as...the Detour Gold Mine and access road to proceed with no assessment whatsoever."

In its statement, the Grand Council made an inaccurate claim: that the access road project was "allowed...to proceed with no assessment whatsoever". An inaccuracy like this highlights the degree to which the public may be provoked by actions such as this exemption.

The Conservation Council of Ontario was concerned about the exemption of not only the Detour Lake road but also several other projects from the EA Act to the extent that it prepared a brief to the Premier of Ontario on exemptions to the Environmental Assessment Act. About the first exemption in the Detour Lake case, the Council had this to say:

"An example of the extent to which the Crown considers itself bound by the Act is the recent exemption of preparatory work in advance of constructing the Detour Lake Access Road. While the Government claimed this exemption does not prejudice the final outcome of the assessment process, the Council does not accept this position. It views this segmentation as precluding the full consideration of alternatives to the undertaking. This certainly cannot be considered as allowing citizen involvement in a long range planning process."

The Council's point about the exemption for clearing--that it cannot be seen as "allowing citizen involvement in a long range planning process"--is strengthened by the exemption of the entire project about four months after the clearing exemption.

An exemption such as this has serious implications both for the EA process and for public confidence in the decision-making process and government decision-makers. The single, stipulated opportunity for the public to have a significant part in the EA process, and to see how a decision was reached on a project, was removed by this action. And exempting the project so close to the completion of the normal EA review process carried the risk of eroding public confidence in government decision-making. The public pattern of accountability for environmental decisions that the EA Act is able to provide was nullified by other pressures for project development.

The way things were done in this case, and the questions raised by these actions, however, can provide a useful basis for further consideration of how the public's role in the EA process can be made more effective, how the process can provide a more expedient accounting to the public for decisions affecting it, and finally, of what the EA Act itself should be able to do.

CONCLUSION

The story of the road to Detour Lake demonstrates the direction and interrelationship of economic development initiatives and the demands of environmental protection, both of which are meant for the benefit of the public. These concurrent and legitimate interests represent two aspects of Government's role: as both facilitator and protector. In this context, the Environmental Assessment Act is meant to be a bridge between these interests, to address the needs and implications of each in a particular case, and to enable the Government to reach the most equitable and beneficial decisions. And those decisions are meant to maximize benefits to the public whose interests Government is in place to serve. The environmental assessment process can play a central part in advancing and balancing some of the most fundamental interests and events that affect the people of Ontario.

The circumstances and events of the Detour Lake case highlight some of the ways things can go wrong in the interaction between economic development and environmental management interests. What happened here can serve to isolate some of the factors in this interaction and stages in the process by which decisions about future benefits to the public are made. The ambiguous status of the road project, the fragmentation of planning efforts for the whole development, the roles adopted by various players, and of course, the inconsistencies in timing at certain stages--all these factors contributed to the confusing picture that evolved of a process in which Government was either unwilling or unable to follow its own rules. This picture does not much affect the general consensus that the project is probably a good thing, that the Government's rationale is acceptable, that the alignment is probably the best one, considering all factors. But it does have implications for future developments in Ontario's north. And the way the environmental assessment process functioned has further implications for development and decision-making in the province as a whole.

Pressures for development in this case continually undermined and finally overruled the normal unfolding of the environmental assessment process. But that occurred because time had finally run out on environmental assessment procedures in favour of project development deadlines and Government obligations. And timing was a problem all along. The Detour Lake case demonstrates two extremes of timing: either unnecessary delays or strict time limitations, and neither is acceptable for an appropriate unfolding of the process. The environmental assessment process can serve the interests of both environmental management and economic development--as a tool of rational planning--if the job of assessment is done well and done in a reasonable time. No proponent wants to submit to irritating delays, and no regulatory agency wants to see a rushed job done of environmental assessment.

The timing problems in the Detour Lake case can be traced to two major factors in the way the whole process was handled; and these factors have important implications for the success or failure of the central and significant role of the environmental assessment process in general. On the part of development initiatives, the demonstrated reluctance of those involved to see the road project as subject to the Environmental Assessment Act, their continued efforts to side-step certain procedures, the rushed job done of the assessment, the announcement to proceed with clearing, the clearing exemption--all these things played a part in upsetting if not scuttling the proper unfolding of the environmental assessment process. Without an acknowledgement of the necessity and appropriateness of environmental assessment requirements, the environmental assessment process cannot be hoped to function effectively or meet the ends it is meant to serve.

On the part of environmental regulatory agencies, it appears that a timely, clear and specific definition of what is required by the environmental assessment process could go a long way in securing the co-operation of development interests in fulfilling the requirements of environmental assessment. The issue of clear criteria for environmental assessment deserves emphasis as perhaps the major contribution to be made for the environmental assessment process to work better for everyone's benefit. A major beneficiary, of course, would be the proponent who could save time and effort by knowing exactly how to proceed. Without such specific guidance, all his best efforts might end up on a scrapheap of inadequacies, confusion and interministerial wrangling after the exercise and document are completed. On the other hand, an appropriate and well-presented environmental assessment document would certainly make the job of environmental protection easier and the environmental assessment process more effective and efficient. Clear criteria for an assessment could also lend credibility to an evaluation of the document at the end of the environmental assessment process.

But what of the public in all of this, the group that these development and protection interests are ultimately meant to serve? In the case of the Detour Lake road, the public was twice shunted to the side of the proceedings. In the initial stages, the public was given little opportunity to contribute to the environmental assessment or to the road location decision. Whatever efforts were made to consult the public were summarily and hurriedly done. And the public's chance to comment on the information and rationale for the road contained in the environmental assessment document was truncated by a final exemption of the project from further environmental assessment requirements. This, too, happened as it did because of time constraints.

But what if the project and its implications had been different, and public concerns more stringent and wide-ranging? The minimal involvement of the public in the process, in this case, presents an irony: the environmental assessment process can provide, at the least, a means for an accounting and reckoning to the public for decisions taken on its behalf.

In the minds of many Northerners there is a perceived opposition between developmental and environmental objectives, for existing regulatory and decision-making processes are not seen to be addressing these issues in terms of a balanced perspective. The public deserves at least an accounting of the factors and trade-offs involved in any decisions that affect a particular part of the public; for this purpose, it may be appropriate also to have the public involved in the identification and weighing of the factors relevant to a certain decision. What the environmental assessment process can do is provide to the public the basis on which certain decisions affecting the public are made.

The story of the road to Detour Lake can raise many important questions about the environmental assessment process and all the interests that affect it and that need to be resolved through it. How can the whole process be made to work better for everyone? What should be the public's part in the various stages of the process? What are some of the issues that need to be addressed, or the problems that need to be resolved? And what is the best way to do this? Finally, how can a process that is meant to balance several legitimate interests be made itself more legitimate and effective? For ultimately, the answer to this final question is the whole purpose of the Environmental Assessment Act, and the public's part in the process.

APPENDICES

APPENDIX A

The Environmental Assessment Act

Revised Statutes of Ontario, 1980
Chapter 140

August 1981

OFFICE CONSOLIDATION

THIS EDITION IS PREPARED FOR
PURPOSES OF CONVENIENCE ONLY,
AND FOR ACCURATE REFERENCE
RECOURSE SHOULD BE HAD TO THE
STATUTES.

CHAPTER 140
Environmental Assessment Act

PART I

INTERPRETATION AND APPLICATION

1. In this Act,

Interpre-
tation

- (a) "air" includes enclosed air;
- (b) "Board" means the Environmental Assessment Board referred to in Part III;
- (c) "environment" means,
 - (i) air, land or water,
 - (ii) plant and animal life, including man,
 - (iii) the social, economic and cultural conditions that influence the life of man or a community,
 - (iv) any building, structure, machine or other device or thing made by man,
 - (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
 - (vi) any part or combination of the foregoing and the interrelationships between any two or more of them,in or of Ontario;
- (d) "environmental assessment", when used in relation to an undertaking, means an environmental assessment submitted pursuant to subsection 5 (1);

(e) "land" includes enclosed land, land covered by water and subsoil;

(f) "Minister" means the Minister of the Environment;

(g) "Ministry" means the Ministry of the Environment;

(h) "municipality" means the corporation of a county, metropolitan area, regional area, district area, city, town, village, township or improvement district and includes a local board as defined in the *Municipal Affairs Act* and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

R.S.O. 1980,
c. 303

(i) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of the *Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association;

R.S.O. 1980,
c. 106

(j) "proceed" includes "carry on";

(k) "proponent" means a person who,

(i) carries out or proposes to carry out an undertaking, or

(ii) is the owner or person having charge, management or control of an undertaking;

(l) "provincial officer" means a person designated by the Minister as a provincial officer under Part IV;

(m) "public body" means a body other than a municipality that is defined as a public body by the regulations;

(n) "regulations" means the regulations made under this Act;

(o) "undertaking" means,

(i) an enterprise or activity or a proposal, plan or program in respect of an enterprise or

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activity by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities, or

- (ii) a major commercial or business enterprise or activity or a proposal, plan or program in respect of a major commercial or business enterprise or activity of a person or persons other than a person or persons referred to in subclause (i) that is designated by the regulations;

(p) "water" means surface water and ground water, or either of them. 1975, c. 69, s. 1.

2. The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment. 1975, c. 69, s. 2. Purpose of Act

3. This Act applies to,

Application of Act

- (a) enterprises or activities or proposals, plans or programs in respect of enterprises or activities by or on behalf of Her Majesty in right of Ontario or by a public body or public bodies or by a municipality or municipalities on and after the day this Act comes into force;
- (b) only on and after a day to be named by proclamation of the Lieutenant Governor, major commercial or business enterprises or activities or proposals, plans or programs in respect of major commercial or business enterprises or activities of a person or persons, other than a person referred to in clause (a), designated by the regulations. 1975, c. 69, s. 3.

4. This Act binds the Crown. 1975, c. 69, s. 4.

The Crown

PART II

ACCEPTANCE, AMENDMENT, APPROVAL

5.—(1) The proponent of an undertaking to which this Act applies shall submit to the Minister an environmental Submission of environmental assessment

assessment of the undertaking and shall not proceed with the undertaking until,

- (a) the environmental assessment has been accepted by the Minister; and
- (b) the Minister has given his approval to proceed with the undertaking.

Exception

(2) Subsection (1) does not prohibit a feasibility study, including research, or any action necessary to comply with this Act before the approval of the Minister is given to proceed with an undertaking.

Content
of environ-
mental
assessment

(3) An environmental assessment submitted to the Minister pursuant to subsection (1) shall consist of,

- (a) a description of the purpose of the undertaking;
- (b) a description of and a statement of the rationale for,
 - (i) the undertaking,
 - (ii) the alternative methods of carrying out the undertaking, and
 - (iii) the alternatives to the undertaking;
- (c) a description of,
 - (i) the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly,
 - (ii) the effects that will be caused or that might reasonably be expected to be caused to the environment, and
 - (iii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment,

by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking; and

- (d) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking. 1975, c. 69, s. 5.

6.—(1) Where a proponent is required under this Act to submit to the Minister an environmental assessment of an undertaking, Where licences, etc., not to be issued

- (a) a licence, permit, approval, permission or consent that is required under any statute, regulation, by-law or other requirement of the Province of Ontario, an agency thereof, a municipality or a regulatory authority, in order to proceed with the undertaking shall not be issued or granted; and
- (b) if it is intended that the Province of Ontario or any agency thereof will provide a loan, a guarantee of repayment of a loan, a grant or a subsidy with respect to the undertaking, the loan, guarantee, grant or subsidy shall not be approved, made or given,

unless,

- (c) the environmental assessment has been submitted to and accepted by the Minister; and
- (d) the Minister has given approval to proceed with the undertaking.

(2) Subsection (1) does not apply to,

Exception

- (a) a licence, permit, approval, permission or consent;
- (b) a loan, guarantee, grant or subsidy,

in relation to a feasibility study, including research, or for any action necessary to comply with this Act before the approval of the Minister is given to proceed with the undertaking. 1975, c. 69, s. 6.

7.—(1) Where an environmental assessment of an undertaking is submitted by a proponent to the Minister, the Minister, Preparation of review and notice

- (a) shall cause a review of the assessment to be prepared; and

(b) shall give notice of,

- (i) the receipt of the assessment,
- (ii) the completion of the preparation of the review,
- (iii) the place or places where the assessment and review may be inspected, and
- (iv) such other matters as the Minister considers necessary or advisable,

to the proponent, the clerk of each municipality in which the undertaking is being or will be carried out and, in such manner as the Minister considers suitable, to the public and to such other persons as the Minister considers necessary or advisable.

Inspection
of environ-
mental
assessment

(2) Any person may inspect an environmental assessment of an undertaking and the review thereof in accordance with the terms of the notice referred to in subsection (1) and may, within thirty days of the giving of the notice or within such longer period as may be stated in the notice,

- (a) make written submissions to the Minister with respect to the undertaking, the environmental assessment and the review thereof; and
- (b) by written notice to the Minister, require a hearing by the Board with respect to the undertaking, the environmental assessment and the review thereof.

Withdrawal
of environ-
mental
assessment

(3) A proponent may withdraw or amend an environmental assessment at any time prior to the day on which notice is given under subsection (1) and thereafter may withdraw or amend an environmental assessment subject to such terms and conditions as the Minister may by order impose. 1975, c. 69, s. 7.

Matters
to be
considered
by the
Minister

8. The Minister, in determining whether to accept or to amend and accept an environmental assessment shall consider the purpose of this Act, the environmental assessment submitted to him, the review thereof, the written submissions, if any, made with respect thereto, any reports required by and submitted to him, and any further review that the Minister has caused to be prepared. 1975, c. 69, s. 8.

Notice of
acceptance
of environ-
mental
assessment

9. Where a hearing is not required,

- (a) pursuant to clause 12 (2) (a); or

- (b) pursuant to clause 12 (2) (b) after receipt of a notice pursuant to clause 7 (2) (b),

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment is satisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall accept the assessment and give notice thereof to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2). 1975, c. 69, s. 9.

10.—(1) Where a hearing is not required,

- (a) pursuant to clause 12 (2) (a); or

- (b) pursuant to clause 12 (2) (b) after receipt of a notice pursuant to clause 7 (2) (b),

Notice of
proposal
to amend
environ-
mental
assessment

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) that the Minister proposes to amend the environmental assessment, together with written reasons therefor including particulars of the amendments that the Minister proposes to make to the environmental assessment and, after considering any further written submissions of the proponent and of any such person, the Minister, where a hearing is not required pursuant to clause 12 (2) (a) or to clause 12 (2) (b) after receipt of a notice pursuant to subsection 12 (1), shall accept or amend and accept the environmental assessment.

- (2) The Minister shall give notice of the acceptance or the amendment and acceptance of the environmental assessment pursuant to subsection (1) to the proponent, and in such manner as the Minister considers suitable, to any person who

Notice of
amendment
and
acceptance
of environ-
mental
assessment

has made a written submission to the Minister pursuant to subsection 7 (2), and where the assessment is amended a copy of the assessment as amended and accepted together with written reasons therefor, to the proponent. 1975, c. 69, s. 10.

Minister
may order
research,
etc., and
reports

11.—(1) Where, before accepting an environmental assessment, the Minister is of the opinion that the environmental assessment as submitted does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent that he proposes, by order, to require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted as are mentioned in the notice, together with written reasons therefor.

Written
submissions

(2) The Minister, after considering any written submissions of the proponent made within fifteen days of the giving of the notice or within such longer period as may be stated in the notice, may by order require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted and to submit such reports thereon as the Minister considers necessary.

Notice of
order

(3) The Minister shall, in such manner as the Minister considers suitable, give notice of the order to any person who has made a written submission to the Minister pursuant to subsection 7 (2).

Reports to
be incor-
porated in
environ-
mental
assessment

(4) Upon submission of the reports to the Minister they shall be incorporated as part of the environmental assessment and the review thereof that the Minister caused to be prepared may be revised accordingly. 1975, c. 69, s. 11.

Notice

12.—(1) A notice that the Minister proposes to amend an environmental assessment shall state that the proponent or any person who has made a written submission to the Minister pursuant to subsection 7 (2) may, by written notice delivered to the Minister within fifteen days after the giving of the notice of proposal to amend, require a hearing by the Board and the proponent or the person may so require such a hearing.

(2) The Minister, by notice in writing,

Hearing

- (a) may, where he considers it advisable; or
- (b) shall, upon receipt of a notice requiring a hearing pursuant to subsection (1) or pursuant to subsection 7 (2), unless in his absolute discretion he considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold a hearing with respect to,

- (c) the acceptance or amendment and acceptance of the environmental assessment;
- (d) whether approval to proceed with the undertaking in respect of which the environmental assessment was submitted should or should not be given; and
- (e) whether the approval mentioned in clause (d) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions.

(3) Upon receipt from the Minister of a notice pursuant ^{Idem} to subsection (2), section 13 or clause 24 (1) (c), the Board shall appoint a time for the hearing, shall give reasonable notice thereof to the proponent and to the Minister and in such manner as the Minister may direct, notice to the public, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) and to such other persons as the Minister considers necessary or advisable, and such other notice as the Board considers proper, and shall hold the hearing and decide the matters referred to it in the notice of the Minister.

(4) The parties to any proceedings before the Board in ^{Parties} respect of the undertaking are,

- (a) the proponent;
- (b) any person, other than the Minister, who has required the hearing; and
- (c) such other persons as,
 - (i) the Board, in its opinion, specifies have an interest in the proceedings, and
 - (ii) the Board, having regard to the purpose of this Act, may specify. 1975, c. 69, s. 12.

Other
hearings

13. Where an environmental assessment has been accepted or amended and accepted, and no hearing has been held pursuant to section 12, the proponent or a person who has made a written submission pursuant to subsection 7 (2) may, by written notice delivered to the Minister within fifteen days after the giving of the notice mentioned in section 9 or the notice mentioned in subsection 10 (2), require a hearing by the Board with respect to,

- (a) whether approval to proceed with the undertaking in respect of which the environmental assessment was submitted should or should not be given; and
- (b) whether the approval mentioned in clause (a) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions, and

the Minister, by notice in writing,

- (c) may, where he considers it advisable; or
- (d) shall, upon receipt of any such notice requiring a hearing, unless in his absolute discretion he considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold a hearing. 1975, c. 69, s. 13.

Approval
to proceed

14.—(1) Where the Minister has accepted an environmental assessment of an undertaking, the Minister may, with the approval of the Lieutenant Governor in Council or of such Ministers of the Crown as the Lieutenant Governor in Council may designate,

- (a) give approval to proceed with the undertaking;
- (b) give approval to proceed with the undertaking subject to such terms and conditions as the Minister considers necessary to carry out the purpose of this Act and in particular requiring or specifying,
 - (i) the methods and phasing of the carrying out of the undertaking,

- (ii) the works or actions to prevent, mitigate or remedy effects of the undertaking on the environment,
 - (iii) such research, investigations, studies and monitoring programs related to the undertaking, and reports thereof, as he considers necessary,
 - (iv) such changes in the undertaking as he considers necessary,
 - (v) that the proponent enter into one or more agreements related to the undertaking with any person with respect to such matters as the Minister considers necessary,
 - (vi) that the proponent comply with all or any of the provisions of the environmental assessment as accepted by the Minister that may be incorporated by reference in the approval,
 - (vii) the period of time during which the undertaking, or any part thereof, shall be commenced or carried out; or
- (c) refuse to give approval to proceed with the undertaking.
- (2) In determining whether to give approval, give approval subject to terms and conditions or refuse to give approval to proceed with an undertaking in accordance with subsection (1), the Minister shall consider, ^{Matters to be considered by the Minister}
- (a) the purpose of this Act;
 - (b) the environmental assessment of the undertaking as accepted by the Minister;
 - (c) the submissions, if any, made to the Minister with respect to the environmental assessment.
- (3) The Minister shall give notice, together with written reasons therefor, of his approval, approval subject to terms and conditions or refusal to give approval to proceed with the undertaking to the proponent, and in such manner as ^{Notice of approval}

the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) and to such other persons as the Minister considers necessary or advisable. 1975, c. 69, s. 14.

Proceedings
under other
Acts

R.S.O. 1980,
cc. 141, 361

15. An approval by the Minister pursuant to this Act to proceed with an undertaking does not preclude any proceeding in relation to a contravention of any provision of the *Environmental Protection Act*, the *Ontario Water Resources Act* or the regulations made under either of those Acts. 1975, c. 69, s. 15.

Effect of
approval

16.—(1) No person shall proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking.

Idem

(2) No person shall give, make, issue, interpret or apply any licence, permit, approval, permission, consent, loan, guarantee of repayment of a loan, grant or subsidy that is required in order to proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking. 1975, c. 69, s. 16.

Where
proponent
proposes
to change
undertaking

17. Where a proponent of an undertaking proposes to make a change in the undertaking,

- (a) before the Minister has given approval to proceed with the undertaking, that does not conform to the environmental assessment of the undertaking as accepted by the Minister; or
- (b) after the Minister has given approval to proceed with the undertaking, that does not conform to any term or condition imposed upon the approval to proceed with the undertaking,

this Act applies to the proposal to make the change in the undertaking as though the proposed change were itself an undertaking to which this Act applies. 1975, c. 69, s. 17.

PART III

ENVIRONMENTAL ASSESSMENT BOARD

Composition
of Board

18.—(1) The board known as the Environmental Assessment Board is continued and shall be composed of not fewer than five persons who shall be appointed by the Lieutenant Governor in Council and shall not be employed in the public service of Ontario in the employ of any ministry.

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board. Chairman and vice-chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, a vice-chairman shall act as and have all the powers of the chairman and, in the absence of the chairman and vice-chairman or vice-chairmen from any meeting of the Board, the members of the Board present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting. Acting chairman

(4) The members of the Board, other than the chairman, shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members, other than the chairman, shall retire each year. Term of members

(5) The chairman of the Board shall be appointed to hold office during pleasure. Term of chairman

(6) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(7) Three members of the Board constitute a quorum. Quorum

(8) Such employees as are necessary to carry out the duties of the Board shall be appointed under the *Public Service Act*. Employees R.S.O. 1980, c. 418

(9) The Board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it. Expert assistance

(10) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(11) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function. Exercise of powers

(12) The Board may determine its own practice and procedure in relation to hearings and may, subject to section 28 of the *Statutory Powers Procedure Act* and Practice and procedure R.S.O. 1980, c. 484

the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable.

Conduct of
hearings by
less than
quorum

(13) The chairman may, in writing, authorize less than a quorum of the Board to conduct a hearing and the member or members conducting the hearing shall have all the powers of the Board for the purposes of the hearing.

Only
members at
hearing to
participate
in decision

(14) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Board may
appoint class
representative

(15) For the purpose of proceedings before the Board, the Board may appoint from among a class of parties to the proceedings having, in the opinion of the Board, a common interest, a person to represent that class in the proceedings, but any other member of the class for which such appointment was made may, with the consent of the Board, take part in the proceedings notwithstanding the appointment.

Minister
entitled to
take part in
proceedings

(16) The Minister is entitled, by counsel or otherwise, to take part in proceedings before the Board.

Giving of
decision

(17) The Board shall give a copy of its decision together with written reasons therefor to the Minister, to the parties, or where an appointment has been made pursuant to subsection (15), to the appointee on behalf of the class, and to such other persons as have made written submissions pursuant to subsection 7 (2) and to the clerk of each municipality in which the undertaking is being or will be carried out.

When
decision is
effective

(18) No decision of the Board is effective until it becomes final pursuant to section 23.

Decisions,
etc. of
Board not
subject to
review

(19) No decision, order, direction, resolution or ruling of the Board shall be questioned or reviewed in any court and no proceeding shall be taken in any court by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, application for judicial review, *quo warranto*, or otherwise to question, review, prohibit or restrain the Board or any of its decisions, orders, directions, resolutions or rulings.

Application of
R.S.O. 1980,
c. 484

(20) Except as otherwise provided in this Act, the *Statutory Powers Procedure Act* applies to the proceedings of the Board. 1975, c. 69, s. 18.

19. A hearing conducted by the Board or a member or members of the Board shall be open to the public except where the Board or the member or members of the Board conducting the hearing is or are of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case, the Board or the member or members of the Board conducting the hearing may hold the hearing concerning any such matters *in camera*. 1975, c. 69, s. 19.

Hearings
to be
public,
exceptions

20. Any decision of the Board that becomes final pursuant to section 23 shall be deemed to be the decision of the Minister or of the Minister with the approval required by section 14. 1975, c. 69, s. 20.

Effect of
decision of
Board

21. No member, employee or appointee of the Board shall be required to give testimony in any proceeding with regard to information obtained by him in the discharge of his duties as a member, employee or appointee of the Board. 1975, c. 69, s. 21.

Testimony
by member,
employee or
appointee
of Board

22. For the purposes relevant to the subject-matter of a hearing, the Board, its employees and appointees may enter and inspect any land or premises other than a dwelling at any reasonable time. 1975, c. 69, s. 23.

Inspection
of premises

23.—(1) Within twenty-eight days after receipt by the Minister of a decision of the Board on any matter referred to it by notice of the Minister pursuant to subsection 12 (2) or section 13 or made pursuant to clause (c), or within such longer period as may be determined by the Minister within such twenty-eight day period, the Minister, with the approval of the Lieutenant Governor in Council or such ministers of the Crown as the Lieutenant Governor in Council may designate, may,

Variation or
rescission of
decisions

- (a) vary the whole or any part of the decision;
- (b) substitute for the decision of the Board, such decision as he considers appropriate; or
- (c) by notice to the Board require the Board to hold a new hearing of the whole or any part of the matter referred to the Board by the notice of the Minister and reconsider its decision.

16 Chap. 140 ENVIRONMENTAL ASSESSMENT Sec. 23 (2)

Idem (2) Subject to subsection (3), a decision of the Board is final after the expiration of the period or periods mentioned in subsection (1) unless, pursuant to subsection (1), the decision is varied or a decision is substituted for the decision of the Board or a new hearing is required.

Idem (3) A decision of the Board that has been varied pursuant to clause (1) (a) or a decision that has been substituted for the decision of the Board pursuant to clause (1) (b), is final.

Idem (4) The Minister shall give notice, together with written reasons therefor, of any variation, substitution or requirement of a new hearing pursuant to subsection (1), to every person entitled to receive a copy of the decision of the Board pursuant to subsection 18 (17). 1975, c. 69, s. 24.

PART IV

PROVINCIAL OFFICERS

Designation of provincial officers **24.—**(1) The Minister may designate in writing one or more employees of the Ministry or other persons as provincial officers for the purposes of any section or Part of this Act or any regulation or section of any regulation made under this Act that is referred to in the designation and in a designation may limit the authority of a provincial officer in such manner as the Minister considers necessary or advisable.

Certificate of designation (2) The Minister shall issue to every provincial officer a certificate of his designation and every provincial officer, in the execution of his duties under this Act and the regulations, shall produce his certificate of designation upon request. 1975, c. 69, s. 25.

Powers of provincial officer **25.—**(1) Where a provincial officer has reasonable grounds for believing that it is necessary, for the purpose of the administration of this Act and the regulations, he may, upon production of his certificate of designation, enter at any reasonable time any building, other than a dwelling, or any structure, machine, vehicle, land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, as he considers necessary for such purpose, including examinations of books, records and documents and may make, take and remove or may require to be made, taken or removed samples, copies or extracts.

(2) Where a justice of the peace is satisfied, upon an *ex parte* application by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, including a dwelling, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the justice of the peace may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions mentioned in subsection (1) but every such entry, survey, examination, investigation, test, inquiry and other such action shall be made or taken between sunrise and sunset unless the justice of the peace authorizes the provincial officer, by the order, to so act at another time. 1975, c. 69, s. 26.

Order
authorizing

26. No person shall hinder or obstruct a provincial officer in the lawful performance of his duties or knowingly furnish a provincial officer with false information or refuse to furnish him with information required for the purposes of this Act and the regulations. 1975, c. 69, s. 27.

Obstruction
of provincial
officer

27.—(1) Every provincial officer shall preserve secrecy in respect of all matters that come to his knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matter to any person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act or the regulations, no provincial officer shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of any survey, examination, test or inquiry under this Act or the regulations. 1975, c. 69, s. 28.

Idem

PART V

ADMINISTRATION

28. The Minister, in addition to any other remedy and to any penalty imposed by law, may apply to the Divisional Court for an order,

Application
to
Divisional
Court

- (a) enjoining any act to proceed with an undertaking contrary to this Act; or
- (b) invalidating any licence, permit, approval, permission or consent issued or granted contrary to subsection 6 (1),

and the court may make the order on such terms and conditions as the court considers proper. 1975, c. 69, s. 29.

Exemption

29. Where the Minister is of the opinion that it is in the public interest, having regard to the purpose of this Act and weighing the same against the injury, damage or interference that might be caused to any person or property by the application of this Act to any undertaking, the Minister, with the approval of the Lieutenant Governor in Council or of such Ministers of the Crown as the Lieutenant Governor in Council may designate, may by order,

- (a) exempt the undertaking or the proponent of the undertaking from the application of this Act or the regulations or any matter or matters provided for in this Act or the regulations subject to such terms and conditions as the Minister may impose;
- (b) suspend or revoke an exemption referred to in clause (a);
- (c) alter or revoke any term or condition of an exemption referred to in clause (a). 1975, c. 69, s. 30.

Disclosure

30. Notwithstanding any other provision of this Act, where the Minister is of the opinion that compliance with any provision of this Act is causing, will cause or will likely cause the disclosure of matters that are of such a nature that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of disclosing such matters to the public, the Minister may make such order for the protection of such person or the public interest as he considers necessary or advisable. 1975, c. 69, s. 31.

Record

31.—(1) The Minister shall cause to be maintained a record of every undertaking in respect of which an environmental assessment has been submitted under this Act that, subject to any order of the Minister pursuant to section 30, shall consist of the environmental assessment, the review

of the environmental assessment that the Minister caused to be prepared, any written submissions, any decision of the Board or the Minister together with written reasons therefor, if any, made under this Act, any notice under section 9, subsection 10 (2), subsection 14 (3), subsection 23 (4) and section 38 and any order of the Minister pursuant to this Act together with the written reasons, if any, therefor.

(2) The Minister shall, upon the request of any person, ^{Inspection} make available for the inspection of such person any record referred to in subsection (1) including any document forming part of the record as soon as practicable after issuance or receipt of the document. 1975, c. 69, s. 32.

32. The Minister, for the purposes of the administration ^{Powers and duties of Minister} and enforcement of this Act and the regulations may,

- (a) conduct research with respect to the environment or environmental assessments;
- (b) conduct studies of the quality of the environment;
- (c) conduct studies of environmental planning or environmental assessments designed to lead to the wise use of the environment by man;
- (d) convene conferences and conduct seminars and educational and training programs with respect to the environment or environmental assessments;
- (e) gather, publish and disseminate information with respect to the environment or environmental assessments;
- (f) make grants and loans for research or the training of persons with respect to the environment or environmental assessments in such amounts and upon such terms and conditions as the Minister, subject to the approval of the Lieutenant Governor in Council, may determine;
- (g) appoint committees to perform such advisory functions as the Minister considers advisable;
- (h) make such investigations, surveys, examinations, tests and other arrangements as he considers necessary; and

- (i) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person with respect to the environment or environmental assessments. 1975, c. 69, s. 33.

Protection
from
personal
liability

R.S.O. 1980,
c. 418

33.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise lies or shall be instituted against an employee of the Ministry, a member of the Board or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer, for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Crown not
relieved of
liability
R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1975, c. 69, s. 34.

Hearings
under
other
Acts

R.S.O. 1980,
cc. 141, 361

34. Where a proponent is required under this Act not to proceed with an undertaking until an environmental assessment of the undertaking has been accepted by the Minister and a public hearing is required or permitted under the *Environmental Protection Act* or the *Ontario Water Resources Act* other than by the Environmental Appeal Board or the Ontario Municipal Board with respect to the undertaking, the Minister shall order,

- (a) that the public hearing under such other Act may be proceeded with and that this Act or the regulations or any matter or matters provided for in this Act or the regulations that is specified in the order does not apply to the undertaking or proponent; or
- (b) that this Act applies to the undertaking and proponent and the public hearing under such other Act shall be deemed not to be required or permitted. 1975, c. 69, s. 35.

False
information

35. No person shall knowingly give false information in any application, return or statement made to the Minister, the Board, an employee or appointee of the

Board, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations. 1975, c. 69, s. 36.

36. In any prosecution, proceeding or hearing under this Act or the regulations, the production of, Certificates, etc., as evidence

- (a) a certificate or report of an analyst in the employ of the Crown in right of Ontario designated by the Minister as to the analysis, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas or any combination of them; or
- (b) any document under this Act purporting to be signed by the Minister or by or for the Board, or any certified copy thereof,

is *prima facie* proof of the facts stated therein and of the authority of the person making the document without any proof of appointment or signature. 1975, c. 69, s. 37.

37.—(1) Any notice, order, approval or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Ministry. Service

- (2) A notice, Notice to clerk of municipality
 - (a) given by the Minister pursuant to section 9, section 10 or subsection 14 (3);
 - (b) given by the Board pursuant to subsection 12 (3); or
 - (c) of the order of the Minister pursuant to section 11,

shall be given to the clerk of each municipality in which the undertaking is being or will be carried out.

(3) Where notice is given or service is made by registered mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice, order, approval or other document until a later date. Idem

Public
notice

(4) Where the Minister or the Board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the Minister or the Board, as the case may be, may instead of doing so, cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the Minister or the Board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Inspection of
documents

(5) The making available by the Minister of a copy or reproduction made by any means of a document is compliance with the provisions of this Act authorizing the inspection of the document.

Destruction
of certain
documents

(6) Notwithstanding any provision of this Act, a document may be destroyed by or under the authority of the Minister when it has been completely recorded or copied and the recording or copy is retained for the purpose of inspection under this section. 1975, c. 69, s. 38.

Where
notice
to be
given to
Minister

38. Where a proponent of an undertaking in respect of which an environmental assessment has been accepted by the Minister and for which approval to proceed has been given by the Minister receives notice of any fact, situation, event, order, proceeding or application the result of which or compliance with which has affected, affects or may affect the ability of the proponent to proceed with the undertaking in accordance with any term or condition to which the approval of the Minister to proceed with the undertaking is subject, the proponent shall forthwith give notice thereof to the Minister. 1975, c. 69, s. 39.

Offence

39. Every person, whether as principal or agent, or an employee of either of them, who contravenes any provision of this Act or the regulations or fails to comply with an order or a term or condition of an approval issued or given under this Act is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$5,000 and on a subsequent conviction to a fine of not more than \$10,000 for every day or part thereof upon which the offence occurs or continues. 1975, c. 69, s. 40.

PART VI

REGULATIONS

40. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) defining any enterprise or activity as a major commercial or business enterprise or activity;
- (b) defining enterprises or activities as classes of major commercial or business enterprises or activities;
- (c) defining any body other than a municipality as a public body;
- (d) designating any major commercial or business enterprise or activity or class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (e) designating any proposal, plan or program or any class of proposals, plans or programs in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (f) exempting any person, class of persons, undertaking or class of undertakings from the provisions of this Act, the regulations or any section or part of a section thereof and designating any enterprise or activity or class of enterprises or activities or any proposal, plan or program or any class of proposals, plans or programs in respect of any of them by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities as an undertaking or class of undertakings to which this Act applies notwithstanding any exemption under this clause;
- (g) prescribing additional information that shall be contained in environmental assessments submitted to the Minister;
- (h) prescribing forms for the purposes of this Act and providing for their use. 1975, c. 69, s. 41.

41. A class of undertakings under this Act or the regulations may be defined with respect to any attribute, quality ^{Class of undertakings}

or characteristic or combination thereof and may be defined to include any number of undertakings under one ownership or more than one ownership and whether or not of the same type or with the same attributes, qualities or characteristics. 1975, c. 69, s. 42.

Scope of
regulations

42. Any regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. 1975, c. 69, s. 43.

Adoption of
codes in
regulations

43. Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted. 1975, c. 69, s. 44.

Application
of
regulations

44.—(1) A regulation is not effective with respect to an enterprise or activity that is commenced before the regulation comes into force.

Idem

(2) Notwithstanding subsection (1), a regulation is effective with respect to,

- (a) any major commercial or business enterprise or activity that is commenced after the coming into force of this Act and that is being carried on or is not completed when the regulation comes into force;
- (b) a significant change made in any major commercial or business enterprise or activity after the coming into force of this Act and that is being carried on or is not completed before the regulation comes into force; or
- (c) any proposal, plan or program in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities proposed or made before the coming into force of the regulation whether the proposal, plan or program is proposed or made before or after the coming into force of this Act.

Idem

(3) Notwithstanding subsection (1), a regulation made under clause 40 (f) is effective whether the enterprise or activity, or class of enterprises or activities, or proposal, plan or program or class of proposals, plans or programs in respect of any of them is commenced, carried on, made or proposed before or after the coming into force of this Act. 1975, c. 69, s. 45.

APPENDIX B

PUBLIC INFORMATION DISPLAY DETOUR LAKE ACCESS ROAD COCHRANE, DECEMBER 16, 1980

DETOUR LAKE ACCESS ROAD

RATIONALE

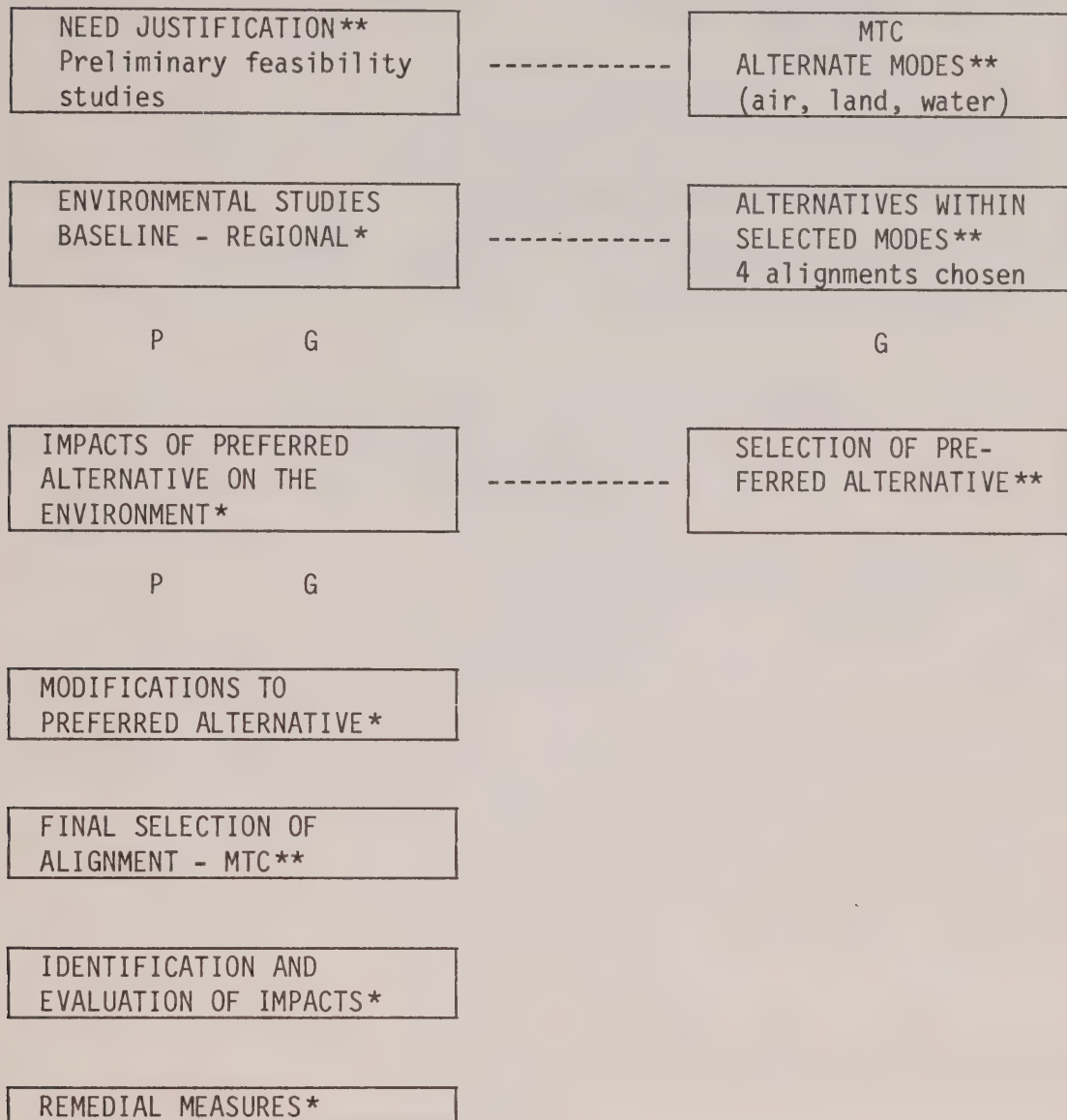
- * TO ACCESS AREAS OF HIGH MINERAL POTENTIAL IN NORTH-EASTERN ONTARIO
- * TO ACCESS RESOURCES OF REGION INCLUDING FORESTRY, TRAPPING, HUNTING, FISHING
- * TO INCREASE RECREATION POTENTIAL OF THE REGION
 - including cottaging, sports, fishing, hunting, lodge establishment
 - (important lakes are Little Abitibi Lake, Tweed Lakes, Kattawagami Lake)
- * TO ENCOURAGE TOURISM AND INDUSTRY IN THE REGION
- * TO INCREASE ECONOMIC STATUS OF COCHRANE AND IROQUOIS FALLS
 - directly by increasing construction, retail and wholesale spending
 - indirectly by increasing services, etc.
- * INCREASE IN CULTURAL/SOCIAL ACTIVITIES

MILESTONES

- 1975 DISCOVERY AND DIAMOND DRILLING AT DETOUR SITE
- 1976 ENVIRONMENTAL STUDIES COMMENCE
- water quality
 - fisheries
 - soils
 - vegetation
- 1977 EXPLORATION DECLINE ENVIRONMENTAL STUDIES
WINTER ROAD EXPANDED
- water quality
 - air
 - climatology
 - wildlife
 - bird status
 - fish
- 1978 FIRST FEASIBILITY STUDIES
- Environmental studies for tailings pond and plant site locations
- 1979 DOME AND CAMPBELL RED LAKE JOIN AMOCO
ENVIRONMENTAL STUDIES EXTENDED
- monitoring programs
 - complete studies
 - input in all design decisions
- 1980 FEASIBILITY STUDIES COMPLETE (decision Dec. 1980)
- Environmental studies extended to Road studies by MTC Aug. 1980
- 1981 ENVIRONMENTAL ASSESSMENT FOR ROAD JAN. 1981
ENVIRONMENTAL STUDIES AND APPRAISAL FOR MINE MAR. 1981
- 1982 ROAD AND MINE CONSTRUCTION (1981/82)
- 1983 MINE START-UP
- 1988 MINE IN FULL PRODUCTION

DETOUR LAKE ACCESS ROAD - ENVIRONMENTAL STUDIES

ORGANIZATION OF THE ENVIRONMENTAL ASSESSMENT PROGRAM



** MTC responsibility

P Public input

* EAG responsibility

G Government input

EFFECTS OF THE ROAD

* DIRECT BENEFITS OF ROAD CONSTRUCTION

to retail
wholesale sectors
service

* BENEFITS OF MINE CONSTRUCTION AND OPERATIONS

* EMPLOYMENT OF 300-400 PERSONS

* SPIN-OFF EMPLOYMENT OF 800-1200 PERSONS IN TOTAL

* ECONOMIC BENEFITS

- Retail
- Wholesale
 - direct to mine
 - indirect through employees of mine
 - indirect through employees in service industries

* INCREASES IN REGIONAL INCOME

* TOURISM

- family-oriented
- hunting and fishing
- cottaging

* INDUSTRIES

- New or expanded industries related to population increase

RECREATION

EXISTING

- Fly-in Camp Operators
- Remote Cottaging
- Wilderness Experience

POTENTIAL

- Cottaging in lakes close to road
(general benefit)
- Increase in sports fishing potential
- Possible increase in hunting (within MNR
management policies)
- Potential Lodge development on Little
Abitibi Lake, Tweed Lakes and Kattawagami
Lake
- Greater access to northern wilderness

POTENTIAL HARMFUL EFFECTS

- Some outfitter cabins will be impacted
greatly

Are there other lakes?

Can existing cabins be used for tourists
along roads?

Can there be a shift to larger lodges on
some lakes?

- Some remote cottaging will be affected

Would they prefer road access?

CONCLUSIONS?

Are the harmful effects greater than the
beneficial?

How can all interests be accommodated?

Do people in Iroquois Falls and Cochrane feel
a need for more recreational access to the
northeast?

What do you think about this?

MAPS

- * DETOUR LAKE ACCESS ROAD - STUDY AREA
- * OPTIONS STILL UNDER STUDY
 - Preferred alignment
 - Environmental options to Preferred
 - Options considered to provide minor environmental returns
- * BEDROCK GEOLOGY
- * DETOUR LAKE ACCESS ROAD - GLACIAL GEOMORPHOLOGY
- * DETOUR LAKE ACCESS ROAD - CARIBOU DISTRIBUTION
- * DETOUR LAKE ACCESS ROAD - MOOSE DISTRIBUTION
- * DETOUR LAKE ACCESS ROAD - TRAP LINES
- * DETOUR LAKE ACCESS ROAD - FLY-IN OPERATIONS

TABLES

* ESTIMATED CONSTRUCTION BENEFITS FROM ROAD CONSTRUCTION

ESTIMATED CONSTRUCTION BENEFITS FROM MINE-MILL CONSTRUCTION

* MINE EMPLOYMENT (PROVISIONAL)

(Total: 100% employment, 370 man-years, 185 new jobs)

NEW DIRECT MINE-RELATED EMPLOYMENT

(Open-pit phase: 251; underground phase: 339)

* TOTAL NEW EMPLOYMENT BENEFITS OF NEW MINE EMPLOYMENT

(Total new employment⁺ Open pit Underground

	I	II	I	II
indirect & current residents				

Cochrane C.D.	361	356	489	480
---------------	-----	-----	-----	-----

Cochrane	133	113	178	152
----------	-----	-----	-----	-----

Timmins	104	106	139	144
---------	-----	-----	-----	-----

Iroquois Falls	50	63	68	83
----------------	----	----	----	----

Option I - bus stops at Cochrane

Option II - bus stops at Cochrane & Iroquois Falls
+ based on employment multipliers)

* LONG TERM⁺ WHOLESALE, RETAIL AND SERVICE INDUSTRY IMPACTS

(based on 1971 population figs. for Cochrane, Timmins and Iroquois Falls; also gives per capita estimates
+ after 1988 full production of mine)

* MUNICIPAL REVENUES AND EXPENDITURES AS OF DEC. 31, 1978 COCHRANE, TIMMINS, IROQUOIS FALLS

(resulting figs. give total debt; also in per capita figs.)

* EXPERIENCED LABOUR FORCE BY OCCUPATION FOR SELECTED COMMUNITIES (TIMMINS, COCHRANE, IROQUOIS FALLS)

(source: Statscan 1971)

- * EMPLOYED EXPERIENCED LABOUR FORCE BY INDUSTRIAL DIVISIONS, SELECTED COMMUNITIES (TIMS., COCH., I.F.)

(source: Statscan 1971)

- * UNEMPLOYMENT INSURANCE COMMISSION REGULAR CLAIMANT SUMMARY (1980) COCHRANE/TIMMINS

(source: Employment & Immigration Canada, Apr.-Oct., 1980)

- * HEALTH CARE FACILITIES (TIMMINS, COCHRANE, IROQUOIS FALLS)

(source: Ministry of Health 1978)

APPENDIX C

NEWS RELEASE VIA CANADA NEWS-WIRE, TORONTO
(416) 863-9350

CAMPBELL RED LAKE MINES LIMITED

TORONTO, JAN. 21 -- Campbell Red Lake Mines Limited, as operator, announces plans to proceed immediately with construction at the Detour Lake joint venture gold deposit located in northeastern Ontario approximately ninety miles north of Cochrane and eight miles from the Ontario-Quebec border. Production, from a 200 metric tonnes per day open pit operation, is planned to commence in late 1983. Mill capacity will be increased to 4000 tonnes per day in 1987 at which time the underground mine will come on stream, initially at a rate of 2000 tonnes per day, and increasing over time as the open pit is phased out.

Ore reserves, estimated at 27,733,000 tonnes grading 0.125 ounces gold per tonne, are more than adequate for a 20-year mine life and the potential for additional tonnage is excellent.

Capital expenditures prior to commencement of production are estimated at dlrs 43,222,000. The 1981 work program, as approved, totals dlrs 22,756,000 and includes site preparation and construction of a permanent camp in addition to definition drilling for the open pit. It is planned that all major buildings will be erected in 1982 with equipment delivery and installation scheduled for the following year.

The construction work force will peak at 450 in 1982 and the operating force will initially total 270, increasing to 490 when open pit mining ceases. No townsite is planned at the minesite at present and it is expected that employees will locate in the surrounding communities of Cochrane, Iroquois Falls and Timmins and will be transported to and from work on a rotational basis.

Agreement in principle has been reached with the Government of Ontario regarding construction of ninety-four miles of road to provide access from the Cochrane-Iroquois Falls area. Completion is expected prior to start up in 1983. It is also expected that electric power will be supplied by Ontario Hydro and firm support has been received in this regard.

FROM: Faskin and Calvin
FOR: Campbell Red Lake Mines Limited
REF: Miss Jacqueline Butler - (416) 366-8381
OR: Mr. C. Henry Brehaut, Vice-President, Operations -
(416) 364-3453.

APPENDIX D

Ministry of
Northern
Affairs

NEWS RELEASE

81-4

January 23, 1981

TORONTO -- Northern Affairs Minister Leo Bernier and Resources Secretary the Honourable Rene Brunelle today announced the awarding of a contract to begin construction of the Detour Lake Road.

The successful bidder is Gaston H. Poulin Ltd. of Hearst. Value of the contract is \$289,190 for clearing from 21.5 km north of Highway 652 northerly for 34.5 km.

The Detour Lake Road will service the development of a new gold mine by Campbell Red Lake Mines Ltd.

The new mine, to be located approximately 108 kilometres (90 miles) north of Cochrane, was announced recently by the company.

In making the announcement, Mr. Bernier said he was "pleased that the Northern Ontario Resources Transportation Commission was able to assist in the opening up of this major new mining area. Resource roads are critical to the economy of the north and I hope this new venture will guarantee at least 20 years of employment in northeastern Ontario."

Mr. Brunelle said the government has been working closely with the company for several months on the preparation of a development plan.

"I am delighted that the company has now made a final decision to proceed with this mine. It will have a very significant impact on the whole economy of northeastern Ontario," said Mr. Brunelle.

APPENDIX E

O.C. 392/81

Ontario
Executive Council

I certify that the paper-writing hereunto annexed is a true copy of the Order-in-Council for an Exemption Order under The Environmental Assessment Act, 1975, approved by His Honour the Lieutenant Governor in Council on the 11th day of February, A.D. 1981.

Dated at Toronto this 11th day of February, A.D. 1981.

(Edward Stewart)
Clerk, Executive Council

Order in Council

Ontario
Executive Council

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that

WHEREAS Section 30 of The Environmental Assessment Act, 1975, provides that where the Minister of the Environment is of the opinion that it is in the public interest, having regard to the purpose of the Act and weighing the same against the injury, damage or interference that might be caused to any person or property by the application of the Act to any undertaking, the Minister with the approval of the Lieutenant Governor in Council, may by order exempt the undertaking from the application of the Act or the Regulations or any matter or matters provided for in the Act or the Regulations subject to such terms and conditions as the Minister may impose;

WHEREAS the undersigned has been requested to exempt the undertaking described in the attached order;

AND WHEREAS, having regard to the purpose of the Act and weighing the same against the injury, damage or interference that might be caused to the persons and property indicated in the attached order by the application of the Act to the undertaking described in the attached order, the undersigned is of the opinion that it is in the public interest to order that the undertaking be exempt from the application of the Act, subject to the terms and conditions imposed in the attached order;

THEREFORE, pursuant to the provisions of The Environmental Assessment Act, 1975, the exemption of the undertaking described in the attached order, subject to the terms and conditions therein, be approved.

Recommended (Harry Parrot)
Minister of
the Environment

Concurred (George R. McCague)
Chairman

Approved
and Ordered February 11, 1981
Date

(John B. Aird)
Lieutenant-Governor

ORDER MADE UNDER
THE ENVIRONMENTAL ASSESSMENT ACT, 1975

Exemption - Ministry of Transportation and
Communications

Having received a request from the Minister of Transportation and Communications that an undertaking namely:

The activity of carrying out advance clearing of trees and other vegetation, to facilitate the early construction of the Detour Lake Access Road if it is approved under the Act, from 21.5 km north of Highway 652 northerly for 63.5 km.

be exempted from the application of the Act pursuant to Section 30; and

Having been advised that if the undertaking is subject to the application of the Act, the following damage or interference with the persons indicated will occur:

- A. The public will be interfered with by the resulting delays in construction of this project which is viewed as being of significant benefit to the economy of northeastern Ontario;
- B. The Amoco Canada Petroleum - Dome Mines - Campbell Red Lake Mines joint venture, being a mineral development joint venture organized to carry out the development of the Detour Lake resource, will be interfered with and damaged by delays caused by the application of the Act to the undertaking of carrying out advance clearing.

Having weighed such damage or interference against the betterment of the people of the whole or any part of Ontario by the protection, conservation and wise management in Ontario of the environment, which would result from the undertaking being subject to the application of the Act;

The undersigned is of the opinion that it is in the public interest to order and orders, subject to the terms and conditions set out below, that the undertaking is exempt from the application of the Act for the following reasons:

- A. The Government of Ontario has made a commitment to provide access to Detour Lake subject to it being approved under the Act,

- B. The clearing of the alignment for the access road must be completed immediately to ensure that, if it is this road that is approved under the Act as the access to Detour Lake, a total of approximately 150 km of road may be completed on schedule to serve the Detour Lake mine which is to be operational by early 1983,
- C. The clearing of the alignment must be carried out during the winter season due to restrictions on the open burning of cleared debris during the summer season,
- D. The alignment of the access road is entirely upon Crown Lands and entirely within the Abitibi-Price forest lease limits, consent for the clearing activity having been given by the Abitibi-Price corporation,
- E. The timber resources which must be cleared are located within an area which the Abitibi-Price corporation plans to harvest within the next five years,
- F. The Ministry of Natural Resources has reviewed the clearing plans and is satisfied that all merchantable timber will be properly used,
- G. The clearing activity will employ only the close-cutting method thus very little ground disturbance will occur,
- H. The environmental assessment for the access road undertaking has been submitted to the Ministry of the Environment, and
- I. The advanced clearing activity will allow detailed soil investigation to be undertaken to determine the susceptibility of the access road alignment to erosion, and to determine effective mitigating measures in advance of road construction.

This exemption is subject to the following terms and conditions:

- 1. Commencement of road construction subsequent to the completion of advance clearing may be proceeded with only if the Detour Lake access road is approved under the Act,
- 2. The carrying out of the advance clearing shall not influence or determine the acceptance or approval of the route for the Detour Lake access road, nor shall it influence or determine the decision on whether or not to grant approval to proceed with the access road,

-3-

3. The undertaking exempt under this order is limited to the advance clearing described in the Ministry of Transportation and Communications' Contract 80-458 (Detour Lake Road advance clearing from 21.5 km north of Hwy. 652 northerly 37.5 km) and in Contract 80-459 (currently under advertisement and to be awarded February 18, 1981; extending from 59.0 km north of Hwy. 652 northerly 26.0 km).

Dated this _____ day of _____, 1981.

(Harry Parrott)
Minister of the Environment

Approved by O.C. No. _____/81.

O. Reg. No. _____/81.

Filed with the Registrar of Regulations _____, 1981.

Ontario Gazette _____, 1981.

APPENDIX F

MTC - DETOUR LAKE GOLDMINE - ACCESS ROAD

REVIEW OF THE ENVIRONMENTAL
ASSESSMENT DOCUMENT

Royal Commission on the Northern Environment
March 12, 1981

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INTRODUCTION

The Royal Commission's Mandate

The Royal Commission on the Northern Environment is required, by its mandate, to make recommendations concerning both the manner in which development takes place in Ontario North of 50° and the means whereby decisions concerning such development are reached. Although the Commission recognizes that continuing economic development in the area is inevitable, it adopts neither a pro-development nor an anti-development stance. Instead it asserts that whatever development does occur should benefit northern people, should minimize adverse impacts on the physical, social and economic environments, and should result from a decision-making process that both illuminates environmental consequences and accommodates the input of northern people.

Thus, the Commission is examining the Detour Lake proposals and other representative northern projects from two main viewpoints, i.e., their impacts and the process leading to their implementation. The Detour Lake mine and road undertaking appears to epitomize a traditional form of northern development, whereby social and economic change occurs incrementally in response to individual resource-oriented projects and not as the result of comprehensive regional planning. Moreover, the decision process now in progress for the Detour Lake access road serves as a prototype for evaluating the application of the Environmental Assessment Act to northern projects.

The Commission is now completing a comprehensive report on the relationships between resource development initiatives, government roles and the environmental assessment process, with reference to the road access to the mine site at Detour Lake. The following review confines itself to the technical evaluation of the environmental assessment document submitted in support of the proposed access road to the vicinity of the mine site; it thus constitutes only one part of the broader investigation. The review does not debate the pros and cons of the proposed mine or access road, nor does it deal with the appropriateness of the Act for undertakings of this type. Both topics remain, however, of legitimate concern to this Commission.

Review Approach

This review's main thrust is to evaluate the process followed by the proponent to substantiate the proposed alignment for an access road to the vicinity of the Detour Lake mine site. In essence, did the proponent carry out sufficient analysis and provide sufficient information to permit a decision to implement, modify or reject the proposed undertaking?

-2-

This review uses the Environmental Assessment Act and the General Guidelines for the Preparation of Environmental Assessments issued by the Ministry of the Environment as the touchstone for evaluating the proponent's assessment process. While the Guidelines are not intended to be followed slavishly, any process that deviates markedly from them is unlikely to conform to the letter and spirit of the Act.

The General Guidelines explain the terms and requirements of the Environmental Assessment Act, 1975. They state the principles underlying assessments carried out under the Act, as follows:

"In the environmental assessment, the proponent shows that the environmental effects of various alternative courses of action were identified and evaluated, before one of them was selected It should be emphasized that assessment of environmental effects is not something which should begin after a proponent has decided upon the project with which he wishes to proceed, but rather something which should take place as part of the process of arriving at that project decision."

The General Guidelines delineate a logical assessment process that progressively narrows down the field of possible alternatives before arriving at the preferred, recommended alternative. The seven steps identified in the process (Figure 1) constitute a loose organizational framework, not adhered to rigidly, for the comments in this review.

TERMS OF REFERENCE FOR THE ENVIRONMENTAL ASSESSMENT

The environmental assessment report for the Detour Lake access road contains no clear, explicit statement about the purpose of the undertaking or the scope and methodology of the process employed in reaching a decision on a preferred road alignment. The contents of the report text itself shed little further light on these matters. Failure to define purpose and process at the inception of the assessment accounts for deficiencies apparent throughout later stages of the work.

The purpose, scope and methodology of environmental assessments under the Act are normally governed by the General Guidelines and by specific guidelines for the project under review. When a consultant is engaged to carry out an assessment, one would also expect these matters to be clarified by contractual terms of reference. In the case of the Detour Lake access road project, the Environmental

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Applications Group Limited was engaged in August 1980 to prepare the environmental assessment over a four-month period. Section 1 of the assessment document reproduces the project guidelines conveyed in September 1980 and touches briefly on the contractual terms of reference for the consultants' assignment. The treatment there raises as many questions about purpose, scope and process as it answers.

Although the terms of reference for the consultants' assignment are not discussed in the document, the following quotation from the Introduction (p.1-2) provides some clues.

"As proponent of the project, the Ministry of Transportation and Communications have maintained a major role in the study being responsible to the requirements for, evaluation of and selection of the preferred alternative. The Environmental Applications Group Limited were contracted to complete an evaluation of the existing baseline environmental conditions and to evaluate the impacts of the preferred alternative on the immediate vicinity and on the regional (sic) generally."

The task of narrowing down alternatives had proceeded to the stage of designating a preferred mode (road) and a preferred route for access to the mine site before the consultants were engaged, and clearly was already far advanced before the project was brought under the Environmental Assessment Act. In effect, the consultants were asked to package and summarize earlier work leading to selection of a preferred route corridor and to carry out whatever additional studies were required in order to "fine-tune" the road alignment within the corridor and assess impacts. One must wonder about the extents to which the outcome of the assessment was determined before it was formally commissioned and to which the consultant's work was hampered from the outset. Whatever the answer to these questions, the consultant was clearly forced to operate under rigorous time constraints calling for reliance on the quality of earlier work done to narrow down the range of alternatives.

The guidelines for the Detour Lake access road assessment, prepared in September 1980, provide a short check-list of topics to be covered in the assignment, but do not define the purpose of the assessment, the process to be followed or the area to be studied. To what extent were these matters left to the consultants' discretion? Moreover, these issues of purpose, scope and process are further confused by the following cryptic, introductory statement in the project guidelines.

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"The following guidelines point out areas to be addressed in the preparation of the EA for access to the Detour Lake Gold Mine. Due to the special circumstances of this project, the detail and depth of information will be treated in accordance with its remoteness and potential environmental implications. The level of details will be established during the course of the study through discussions among the interested parties."

In the context of the time limitations imposed on this assignment, this statement can convey only a strong impression that an assessment falling below normal standards will be acceptable. Are the "special circumstances" in fact the need for a quick decision on the road in order to expedite development of the mine itself? Allusion to "remoteness and potential environmental implications" carries undertones that the area affected by the undertaking is so vast, sparsely populated and remote from major urban settlement that it does not really merit a rigorous environmental assessment. Considering the short time span of the project, it seems strange that the level of detail had yet to be established at the time that the guidelines were prepared. When did the prescribed discussions actually take place? What interested parties were involved? What was the outcome?

PURPOSE OF THE UNDERTAKING

Section 5(3) of the Environmental Assessment Act calls for a description of the purpose of an undertaking. This first step in the assessment process is a crucial one; any ambiguity about purpose will have inevitable repercussions throughout the entire process. As the General Guidelines put it,

"This description should state what the proponent wishes to achieve by carrying out the undertaking. This may be stated in terms of the intended effect on society, the particular problem which is to be solved or alleviated, or the opportunity which is to be pursued. The means by which the desired end is to be achieved should not be specified in the description of purpose."

The environmental assessment document for the Detour Lake access road contains no explicit statement of the purpose of the undertaking. The discussion in Section 1.3 merely states that construction of a road in this part of northeastern Ontario would result in several benefits: access to Detour Lake, resource-related developments elsewhere in the northeast, and new job creation. A statement of benefits is the outcome of a process of assessment; it is not a statement of purpose.

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Unfortunately, the purpose of this undertaking cannot be ascertained from the consultants' terms of reference, the project guidelines or the content of the report itself. Clearly, provision of access to the mine site must be one main purpose. However, frequent reference to the Moosonee access road study and, in particular, specific resource development prospects to the east of the Abitibi River indicates an even broader purpose, namely provision of improved access to the northeast generally. The proponent's evident inability to prioritize or reconcile these twin objectives gives rise to an ambiguity that pervades the entire environmental assessment. Just what is it that is being assessed? Can both objectives be optimized simultaneously?

Failure to prioritize purposes is a perplexing problem with this assessment. Depending on one's interpretation of the report, the purpose of the undertaking might be any of the following.

- access to Detour Lake, with improved northeast access as an incidental objective
- access to both Detour Lake and the northeast
- access to the northeast, with access to Detour Lake as an ancillary objective.

This is not mere semantic quibbling, for each of these three cases would call for its own distinctive environmental assessment, differing in nature and scope from those required for the other two. And in all three cases, the northeast access component would need to be accorded a level of substantiation in social, economic, engineering and natural environmental terms that is not provided in this assessment document.

Many important questions are never addressed. Would a route passing through Detour Lake be the most beneficial and environmentally acceptable route for accessing the northeast? What would be the associated costs? To what degree does the justification for provision of improved access to Detour Lake rest on additional benefits available by opening up new territory farther north? To what degree does the justification for provision of improved access to the northeast depend on benefits accruing from the mine development at Detour Lake? And finally, if the northeast access route were to be extended to Moosonee, what impacts would it generate there? Since such questions are never confronted, incorporation of extended northeastern Ontario access as a matter for serious consideration in the environmental assessment can be regarded as little more than a red-herring. Its use to strengthen the case for an access road to Detour lake is highly misleading.

THE ENVIRONMENTAL ASSESSMENT PROCESS

General Principles

The task of identifying and then narrowing down alternative ways of achieving the stated purpose of an undertaking plays a crucial, central role in the environmental assessment process. As the General Guidelines put it,

"The document should describe the evaluation process. This examines and compares all the information previously obtained, with a view to singling out the most acceptable alternative, in the proponent's opinion. This is put forward as the undertaking. The evaluation is a trade-off process in which the advantages and disadvantages of alternative courses of action are weighed in terms of their effects, both beneficial and adverse, on the environment."

Evaluation proceeds in a logical, step-wise and reiterative progression consisting of the following key work elements.

1. Description of the environmental assessment procedures followed
2. Identification of alternatives to the undertaking
3. Identification of alternative methods of carrying out the undertaking
4. Selection of appropriate study area(s)
5. Baseline description of the biophysical, social and economic characteristics of the environment affected by the undertaking and alternatives
6. Comparative evaluation of alternatives to the undertaking and alternative methods of carrying out the undertaking.

Description of Proponent's Environmental Assessment Procedures

Ambiguity surrounding prioritization of the two purposes of north-east access and access to Detour lake pervades the proponent's environmental assessment process -- from selection of study areas and choice of baseline information to the identification and treatment of alternatives. Not surprisingly, the assessment document for the

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Detour Lake access road provides no clear description of the procedures followed before and after the project was brought under the Environmental Assessment Act. Section 2.1 of the document, ostensibly dealing with this topic, does not deal with it but focuses instead on a discussion of field work carried out by the consultants within the preferred road corridor to the vicinity of the mine site.

To the extent that it is discernible at all, the proponent's assessment process appears to have been one that served to very quickly narrow down a range of alternatives culminating in selection of a preferred road corridor, which was then subjected to more-detailed field survey and evaluation.

Identification of Alternatives

The Environmental Assessment Act stipulates that an environmental assessment submitted to the Minister shall contain a description of and a statement of rationale for the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking. Again quoting the General Guidelines,

"The Act distinguishes between 'the alternative methods of carrying out the undertaking' and 'the alternatives to the undertaking' categorizing them in this way may help the proponent to organize the documentation of his study say the proponent eventually decides to make a submission under the Act with a new road as the undertaking, the other alternatives (railway, air service, economic incentives, etc.) would be the 'alternatives to'. 'Alternative methods ...' would comprise a detailed consideration of the various ways of handling the preferred alternative of a new road -- e.g., alternative locations for the road, different types of roads, different construction techniques, etc."

Sections 1 (Introduction) and 4 (Alternatives) of the environmental assessment document commence with a discussion of the 1974 Moosonee access road study, which identified several alternative road corridors leading to Moosonee from Kapuskasing, Smooth Rock Falls, and Iroquois Falls (Figure 2). These corridors were then evaluated on the basis of several criteria including environmental impacts, access to untapped resources and engineering costs. The results were not definitive. Technical and engineering grounds tended to support a route (1) west of the Abitibi River. However, it was also noted that the easternmost routes (2 and 4) could tap resources known to exist in northeastern Ontario to the east of that river. A decision on the outcome of the study was deferred pending the results of further

resource inventories, now completed but not summarized in the assessment document.

The relevance of these Moosonee access alternatives to the Detour Lake undertaking remains unclear. They do not appear to have been re-evaluated in the light of more recent resources information. Only the easternmost of them could conceivably provide access to Detour Lake; this was in fact identified as route 1 in the Detour Lake study. In effect, the Detour Lake study added several additional routes having potential to access northeastern resources and ultimately Moosonee. Only the eastern routes achieve the purpose of accessing Detour Lake. But, in the absence of comparative evaluation, all of them appear to remain legitimate candidates for attaining the purpose of northeastern Ontario access.

The environmental assessment document identified and briefly discussed three alternatives to the proposed access road undertaking, i.e. fly in/out, establishment of a townsite near the mine, and road access via Quebec. These were quickly discarded in favour of an all-Ontario road leading to the mine-site from an operational and servicing base in the Cochrane area.

The proponent then identified road corridors that could access Detour Lake (Figure 2), using engineering criteria; in effect these constituted alternative methods of carrying out the undertaking. Further evaluation led to selection of a fifth corridor as the preferred corridor to Detour Lake.

A large part of the consultants' work was devoted to identifying and then evaluating alternative road alignments within the preferred corridor. The preferred alignment was then established through trading-off engineering, environmental, and land use considerations; it constitutes the undertaking proposed in the assessment document.

Selection of Study Areas

The General Guidelines stipulate that *"the basis for defining the study area and determining its boundaries must be defined"*, while also recognizing that more than one study area may be required for any particular environmental assessment. In the case of the Detour Lake project, the proponent selected three study areas for collection and display of baseline data and analysis of social, economic and natural environmental consequences. Criteria for establishing and bounding these areas are not specified, and the areas themselves are unsatisfactory in several major respects.

The area defined for biophysical and land use studies provides adequate spatial coverage for dealing with alternative road corridors to the Detour Lake mine site. However, it truncates possible future extensions of the Detour Lake routes at the latitude of Kesagami Lake and is therefore unsatisfactory for illuminating natural environmental and other factors relevant to northeast access generally.

Two levels of study area were defined for descriptive and analytic work on socio-economic parameters. The so-called regional level comprises the Cochrane census district. Aggregate baseline data for this area, which includes such widely separated and diverse communities as Fort Albany, Moosonee, Pagwa, Hearst, Cochrane and Timmins, is of questionable value for analysis of impacts; moreover, much of the Census information is out of date. For local level analysis, the study focused on a much smaller area including Cochrane, Iroquois Falls, and Timmins. Moosonee, Moose Factory and some other smaller inhabited places that would likely be affected by extended road access into northeastern Ontario were thereby excluded from local-level analysis.

Description of the Environment Affected

The Environmental Assessment Act stipulates that the proponent must present a description of the environment affected by a proposed undertaking and its alternatives. This description is to provide the baseline information against which the environmental consequences of the various alternatives can be measured and evaluated. The General Guidelines set out criteria for an adequate descriptive approach; the description should focus primarily on the elucidation of those factors, and their systems interrelationships, relevant to a progressive narrowing down of alternatives through consideration of their direct and indirect consequences:

"The Act requires a description of the environment that would be or might be affected directly or indirectly by the proposed undertaking or its alternatives."

"In order to take account of interrelationships between components of the environment, the study and description of ecological, and social, cultural and economic systems is necessary."

"The data base need contain only that amount of information required by the stage reached in the study process and which will allow significant environmental effects to be elucidated."

The proponent's description of the environment affected by the proposed road to Detour Lake and by alternative transportation modes and routes is contained in Section 3, entitled "Existing Conditions". The first subsection (3.1) described socio-economic conditions in the Cochrane census district and in the more local area (Cochrane vicinity) that would benefit most from the undertaking. The scope of this work was constrained by data gaps and problems of outdatedness and aggregation inherent in the information readily available.

The bulk of the consultants' baseline description focuses on the biophysical conditions, natural resources and existing land uses in the study area that would be affected by alternative road corridors accessing Detour Lake. The sheer volume of this treatment (almost 500 pages and more than 50 maps) conveys an initial impression of comprehensiveness but, after closer examination, serves mainly to obscure both important issues and the process of narrowing down alternatives.

The consultants undertook two different levels of work for describing the study area affected by road alternatives. First, they assembled highly generalized factual information and presented it in overview form for the study area as a whole; most of this information had been collected by others prior to designation of the project under the Environmental Assessment Act. Secondly, the consultants undertook more detailed field studies of a circumscribed range of phenomena confined to the already selected, preferred road corridor to the vicinity of Detour Lake. No attempt was made to integrate the results of these two levels of work.

The consultants encountered evident difficulties in assembling baseline information of the type that would facilitate progressive narrowing down of road corridor alternatives to finally arrive at the preferred corridor and road alignment. First, ambiguity in a satisfactory definition of purpose for the undertaking led to selection of a study area too small to adequately display the various parameters essential for consideration of northeast access routes extending beyond Detour Lake. Secondly, the consultants' ability to provide a comparative analysis of road alternatives simultaneously accessing Detour Lake and the general northeast was severely constrained by the limitations of overview data collected by other agencies for their own objectives not directly related to a road. Thirdly, circumstances over which the consultants had little control, namely timing exigencies surrounding the initiation of mine development, forced them to allocate most of their limited time and staff resources to field studies and description and analysis of alternatives within the preferred road corridor.

The outcome of these difficulties is a baseline description that scarcely meets the criteria set out in the General Guidelines. In an environmental assessment, descriptive information has only an applied

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value, not an intrinsic value. The task in description is essentially to record only that information relevant to comparative evaluation of alternatives at various levels in the narrowing-down process. The description in the Detour Lake report contains a great deal of extraneous information that is insufficiently relevant or area-specific to be used in this fashion. At the same time it omits other information that would have been exceedingly useful for comparative evaluation of alternatives. Moreover, the information presented is generally inadequate to expose systems interrelationships that might otherwise have been tied, through extrapolation, to interrelationships exposed by more detailed work within the preferred road corridor.

The consultants' efforts to provide the information base necessary for evaluation of road alternatives within the preferred corridor appear to have been considerably more successful. However, detailed technical appraisal of this work lies well beyond the scope of this review.

Comparative Evaluation of Mode and Route Alternatives

The General Guidelines require a proponent to evaluate alternatives to a proposed undertaking and alternative methods of carrying out an undertaking using a comprehensive set of social, economic and natural environmental criteria.

"By this means, the proponent is required to consider a full range of environmental consequences, rather than simply technical and economic feasibility, at all levels of the process leading up to the selection of a preferred alternative."

Comparative evaluation of alternatives is carried out through three interlocking and reiterative steps in the environmental assessment process, i.e., prediction of potential effects, identification of mitigation possibilities, and evaluation of alternatives (Figure 1). Section 4 of the Detour Lake report ("Alternatives and Evaluation") presents the proponent's arguments for eliminating alternatives to the proposed undertaking and alternative methods of carrying out the undertaking. Section 5 devotes more substantial consideration to the examination of "condition changes", and associated mitigation measures, relevant to selection of the proposed alignment within the preferred corridor. Thus, the main focus of the proponent's evaluation is on the final stage of the narrowing-down process, rather than on earlier stages. In fact, this earlier work is deficient in several crucial aspects.

The proponent's problematic treatment of a northeastern access road is the first main subject of concern. The Detour Lake report seems to imply that the resource development and other objectives established in the Moosonee access road study can be secured by means of a route extending northwards from near the mine site. But such an alignment was never considered by the earlier studies and would apparently entail considerable westwards back-tracking to reach such places mentioned as the columbium deposits, Onakawana and Moosonee. At one place (p.1-24), the report asserts that *"the corridor and the route alternative selected best meet the criteria of providing access for Northeastern Ontario and providing a road connection from a major centre to the Detour Lake Joint Venture development site ..."*. Not surprisingly, this statement is entirely unsubstantiated in the report. The costs, benefits and natural environmental consequences of a northeastern access route passing through Detour Lake were not defined, let alone comparatively evaluated against those associated with alternative routes. Nor did this study reappraise the earlier Moosonee access alternatives in the light of more recently obtained information on natural resources.

The proponent's treatment of alternatives to the undertaking is little more satisfactory. Three options are briefly discussed and evaluated using qualitative criteria. According to the report, at least some of these were subjected to separate studies; if these studies provided a quantitative evaluation of options, they should have been included or summarized in the assessment document. In particular, the reasons for rejecting the option of flying to and from a central location are unconvincingly explained. The report notes that the operation of a daily air commuting service from Cochrane is an economic proposition, not overly dependent on weather conditions, and that it would generate many fewer adverse environmental impacts than a road. But, *"it would not address the other major concern - access to Northeastern Ontario"*. Again, one must ask whether access to the northeast is an essential part of the rationale for providing road access to Detour Lake. If the answer is yes, then such access beyond the site should have been properly assessed. If the answer is no, could not the flying option remain a feasible one?

Having dismissed the flying and town-site options, the proponent's attention turned to delineation of four alternative road corridors that might give access to both Detour Lake and areas farther north; in effect these are the proponent's candidate alternative methods of carrying out the undertaking. The corridors, selected using engineering criteria, were aligned to take advantage of existing roads and linear, northward-trending esker systems. They were then compared using five main unweighted criteria: distance, access to northeastern Ontario, impact on outfitter camps, impacts on Abitibi-Price operations and costs. Significantly, this comparative analysis was limited in scope and highly subjective. The proponent did not subject the alternative corridors to rigorous analysis of costs, benefits and environmental impacts, and did not, in fact, draw extensively

on the data base developed in Section 3. Failure to assign weights to the criteria used constrained meaningful examination of the tradeoffs involved. Ultimately, the report leaves little doubt that engineering factors were paramount in the narrowing down of alternatives: *"Since cultural features are minimum only the engineering parameters were considered relevant during the route selection stage."*

The analysis led to the selection of route 4 as the best of the alternative corridors. However, the proponent recognized that the southerly portion of this route would impinge on utilization of Abitibi-Price's existing road network. Accordingly, two alternatives (A and B) from the Tweed Lake area southerly to Highway 652 were investigated; although reference is made here to Figure 4.2-1, this was not included in the report. The preferred road corridor follows route B to the vicinity of Tweed Lake, thence extending northward along the route 4 alignment to the vicinity of the mine site. This route could be used as a springboard for further northeast access by constructing a new road, starting near Lake Kattawagami and passing immediately west of Kesagami Lake. The alignment, costs, benefits, and impacts of such an extended road were not examined.

The consultant carried out fairly extensive field investigations within the preferred corridor in order to assess a road's impacts on the environment and existing land uses, to suggest alignment changes that would further reduce adverse impacts, to recommend appropriate mitigation measures, and to determine design and construction requirements. This highly technical work culminated in selection of the alignment proposed as the undertaking. Comment on this work lies beyond the scope of this review and is more properly a task for specialists in the various line ministries. However, it must be noted that the report does not clearly assign cost values to the various mitigation measures or to the unmitigated impacts. And finally, the report does not present any "balance sheet" comparing the undertaking's benefits and costs in quantitative or qualitative terms.

Evaluation of Socio-Economic Impacts

Subsection 5.2.1 presents the proponent's assessment of the socio-economic impacts ("condition changes") of the proposed mine and access road developments on Cochrane and vicinity. While noting (p.5-19) that *"the benefits accruing to groups other than the Detour Lake Joint Venture are however extremely sensitive to the route selected"*, the report considers only the Cochrane area as the primary beneficiary.

The first stage in the socio-economic analysis involved use of a gravity model to allocate new workers for the mine and road development; the results were then modified to take characteristics of individual communities into account. The report differentiates four

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categories of local economic impact: 1) arising directly from road construction and related activities, 2) arising directly from mine, plant and infrastructure construction, 3) arising directly and indirectly from the Detour Lake Joint Venture, and 4) potentially accruing from accessing other valuable areas. In view of the short construction period, no employment multipliers or indirect benefits are estimated for construction activities.

The socio-economic impact work focuses on the new local employment that would be generated directly and indirectly in the Cochrane area from construction and operation of the road and mine. It deals briefly with the implications of these employment effects on the trade and service industries, housing, utilities and municipal finance.

Detailed appraisal of the proponent's work on socio-economic impacts is beyond the scope of this review. The report undoubtedly gives short shrift to some important aspects of socio-economic evaluation. Social and economic considerations were not injected strongly into the proponent's comparison of alternative modes and routes. For this reason, the report nowhere confronts important tradeoffs, such as those facing tourist outfitters and native people, in socio-economic terms. Despite the extensive treatment accorded to natural environmental and land use "condition changes" likely to arise within the preferred corridor, the various costs (construction, mitigation and so forth) and benefits associated with the undertaking are not measured, and hence not compared.

While the report refers to a category of local economic impacts *"potentially accruing from access to other valuable areas"* (in the northeast), these are not clearly described, let alone evaluated. The document does not specify the magnitude of benefits that might be dispersed to the province through development of the mine and provision of improved access to the northeast, despite its assertion (p.4-6) that *"the provincial intent of building the road in the area is to provide access to Northeastern Ontario thereby maximizing economic benefits to the province of Ontario and provide the necessary requirements of the Detour Lake Joint Venture"*. The local social and economic consequences of a road extension to Moosonee are not considered at all.

In sum, the proponent fails to provide the public or decision-makers with any sort of balance sheet that clearly sets the costs associated with the undertaking and the alternatives against the benefits. In the final analysis, the proponent fails to drive home a justification for the proposed access road to Detour Lake.

STATEMENT OF RATIONALE

The Environmental Assessment Act requires the proponent of a designated undertaking to prepare a statement of rationale for the undertaking, the alternative methods of carrying out the undertaking, and the alternatives to the undertaking. As the General Guidelines explain,

"The statement of rationale for the undertaking ... is the proponent's summary of the environmental assessment, in which the argument in favour of the proposed undertaking is put forward. By also describing and stating the rationale for the alternatives, the proponent shows that the probable environmental effects of the alternatives were considered in evaluating them and choosing the proposed undertaking from amongst them."

Statements of rationale are normally presented near the beginning of an environment assessment document although, for obvious reasons, they cannot be prepared until the assessment process has been fully worked through. In the case of the Detour Lake document, the proponent's statement of rationale is presented on the two pages constituting Section 1.5. In addition, the proponent's summary of the undertaking's benefits, presented under the heading "Purpose", should be considered more logically as part of the rationale.

The scope of a statement of rationale, as specified in the Act, is much too broad to be dealt with satisfactorily in the scanty treatment accorded in the document. Therefore, it is not surprising that the proponent's statement of rationale and summary of benefits do not establish a case substantiating the assessment document's final conclusion that:

"The corridor and the route alternative selected best meet the criteria of providing access for Northeastern Ontario and providing a road connection from a major centre to the Detour Lake Joint Venture development site, as well as addressing those concerns expressed by the Provincial agencies, Municipalities and private individuals. The route selected also minimizes impacts to the natural and social environment of the area."

The statement of rationale begins with a simple assertion that known mineral potentials, such as those associated with the greenstone complex near Detour Lake, the columbium deposits and the lignite deposits, now justify a northeast access road passing near Detour Lake.

As shown elsewhere, this contention has not been established through a process of environmental assessment and comparative evaluation. The statement then summarizes alternatives to the undertaking, eliminating the fly in/out option primarily because it *"provides low incentives for the continuing development of Northeastern Ontario or for access via road for future exploratory work"* To raise the issue of northeastern access here, without any substantiation of associated costs, benefits and impacts, is highly misleading.

Having settled on a road as the preferred transportation mode, the proponent then briefly examines alternative road corridors that would access the northeast, Detour Lake, or both. The rationale states that several route corridors including *"the ones discussed in the Moosonee access (sic) plus others developed particularly for this study were evaluated"* in terms of potential for access to natural resources in general and the mine site in particular. In fact, no comparative evaluation of all these corridors was undertaken during this study. Moreover, one wonders how most of the Moosonee alternatives could possibly be relevant to the provision of access to Detour Lake.

The road corridors *"developed particularly for this study"* include four routes having some potential to access Detour Lake. These were compared using a limited range of criteria (primarily engineering parameters), but were not subjected to analysis of costs, benefits, natural environmental consequences, and tradeoffs. Further narrowing down of alternatives, based mainly on the consultants' field work, led to delineation of a preferred corridor and, within it, the proposed undertaking, the road alignment minimizing impact.

The proponent's summary of the undertaking's benefits is presented in the assessment document's discussion of the purpose of the undertaking; essentially this forms part of the proponent's rationale. Two important points must be made here. First, the proponent's presentation of a list of benefits without a counterbalancing summary of the associated costs and adverse impacts is highly misleading. Second, many of the specific benefits advanced are not adequately substantiated by material in the main body of the document. For both reasons, the proponent tends to over-state the case in favour of the proposed undertaking.

The benefits summarized are of two main types, potential to induce exploration and utilization of natural resources in the northeast and potential to generate economic activity in Cochrane and the area adjacent to it. The proponent first asserts that the road would constitute a corridor to areas of high mineral potential in northeastern Ontario. However, such resource use benefits could be secured only by extension of a road beyond Detour Lake, a project not assessed in this document. The proponent then states that the road would constitute a

corridor for the exploitation of forest resources. This purported benefit seems questionable in view of the statement (p.5-51) that *"forest capability is very limited in northern areas which are not currently under lease or accessed. North of the Tweed Lakes no significant increased cutting is likely due to the new road"*

The summary refers to several benefits arising from increased use of natural resources for tourism and outdoor recreation, but does not acknowledge the tradeoffs entailed in the loss of wilderness values essential to outpost tourism. The summary points out that the road would stimulate tourist and recreational use of several specified lakes; at least two of these, Pierre and Little Abitibi, appear to be reachable now using existing bush roads.

Finally, the proponent's summary refers to benefits accruing to the Cochrane region as a result of the road undertaking, the mine development at Detour Lake, and *"other potential mineral developments"*. Clearly, allusion to benefits of the last type is misleading. While an access road to Detour Lake might stimulate the development of other deposits associated with the greenstone complex near the mine site, it would not generate directly a flow of benefits from promising mineral deposits farther north.

COMMISSION'S CONCLUSIONS

The Commission's preceding review has evaluated the environmental assessment document submitted for the Detour Lake road undertaking solely in terms of its conformity to the process specified in the Environmental Assessment Act and elaborated in the General Guidelines. The Commission has no stake in opposing either the Detour Lake mine development or the alignment of the proposed road. But its concern over the process employed in arriving at the undertaking is justified by its mandate.

This exhaustive and critical review of the environmental assessment document leads to a conclusion that the proponent has failed to substantiate the proposed undertaking through a process acceptable under the Act. Thus, the adequacy of the document as a basis for reaching a decision to implement, modify or reject the undertaking must remain open to serious question.

The proponent's environmental assessment is seriously and pervasively flawed on two main counts. First, the proponent's evident difficulties in defining the purpose of the undertaking generate uncertainty about what it is that is being environmentally assessed. Failure to define, prioritize and reconcile the twin purposes of northeastern Ontario access and access to Detour Lake creates an ambiguity that rebounds through the various stages in the assessment process.

The second crucial defect is the proponent's failure to progressively narrow down the field of alternatives through comparative evaluation of their social, economic and environmental consequences. The rough-and-ready approach adopted appears inconsistent with the letter and spirit of the Act.

Both of these deficiencies are attributable to the special circumstances pertaining to the Detour Lake undertaking. The terms of reference and project guidelines governing the assessment did not clarify the purpose of the undertaking or the scope and methodology of the process to be followed. The work was further constrained by time limitations and by the fact that many crucial decisions on the undertaking had jelled by the time the consultants were engaged. Finally, the decision to exempt the mine development from assessment under the Act must have created major conceptual problems for the proponent and the consultant. For the Detour Lake mine would be the major project having the potential to generate benefits. On the other hand, a road would merely constitute the means for stimulating and supporting the mine development and securing the flow of benefits from it; clearly a road would be difficult to justify in intrinsic terms. In the case of this project, the combined effects of the mine and the road could not be fully assessed. Small wonder, then, that the proponent was tempted to look farther north for additional resource potentials that might help to justify the Detour Lake road.

This review's strong reservations about the prominence accorded by the proponent to northeastern Ontario access rest on two main grounds. First, as these comments amply demonstrate, the proponent's treatment of this matter creates ambiguity throughout the assessment process and, ultimately, ascribes unsubstantiated benefits from north-east access to the rationale for the proposed road to Detour Lake.

Secondly, the treatment establishes an option-holding position on northeastern access, thus raising the spectre of unco-ordinated incremental development of the northeastern region of the province. The proponent seems aware of this, by stating that *"this road represents a natural continuation of growth northward into Ontario's hinterland"*. A road to Detour Lake would constitute a new salient into the northeast and a new springboard giving impetus for a later extension to tap other resource potentials. Under favourable economic circumstances, the Detour Lake development could initiate the opening up of the entire northeast through a sort of chain-reaction in which each new development is precipitated by its predecessor. The possibility of such a development pattern remains implicit throughout the proponent's treatment, but is nowhere made explicit. Is this an acceptable pattern for bringing about the integrated regional development of Ontario's northeast? Would an access road passing through Detour Lake be superior to the other Moosonee road alternatives? Questions such as these obviously lie beyond the scope of the Detour Lake environmental assessment.

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Clearly, the proponent confronted a dilemma in dealing satisfactorily with the issue of northeastern Ontario access within the context of the Environmental Assessment Act. Once raised, this issue really had to be accorded a degree of assessment not attainable in this assignment. On the other hand, its evasion entirely by the proponent would have constituted a serious defect in the eyes of this reviewer and doubtless others.

APPENDIX G

DETOUR LAKE GOLD MINE- ACCESS ROAD PROPOSED CONSIDERATIONS FOR PREPARATION OF A REVISED EA DOCUMENT

INTRODUCTION

In view of the inability of reviewers to deal with the way the EA has been prepared and presented and in considering the special circumstances of this project, it is being suggested that a revised document be prepared while the existing one being kept as an appendix for reference only. After discussions with several of the review agencies, the following is an outline of what may be considered as an adequate document to present the study process and recommendations for an access road to Detour Lake. The points offered should be reviewed and prepared within the context of the requirements of The Environmental Assessment Act and adhere to the "MOE General Guidelines for the Preparation of Environmental Assessments".

It is highly recommended that on-going communications will be maintained with agencies having an input to the study to ensure that materials they provided was treated in an acceptable way. While this list is comprehensive it may not cover all points and it is up to the proponent to ensure that the revised document is as complete as possible.

Part A of the comments deals with the EA study and document while Part B deals with other means to expedite the processing of this project and others in the future.

A. Proposed Considerations

1. Terms of reference

The terms of reference for the study should be included in the document and provide a clear statement that the undertaking is to serve the Detour Lake Gold Mine, but that consideration also be given to providing flexibility for future development in the Region, cost considerations, minimization of impact on existing and potential land use. The terms of reference should also require an elaboration on timetable deadlines and present government commitment to the road.

2. Background information

Background information should include the following: location of the mine, type of operation, i.e., the type of industrial process that may take place, input and output for the mine to explain potential uses of the road (employees, machinery, other goods), financial arrangement for the road and its management.

3. Description of the purpose

In view of the above, this project is to provide access to Detour Lake Gold Mine. However, as part of its evaluation for a more specific alignment, consideration should be given to future flexibility in relation to access to Moosonee access to other potential resources in the Region, and the relationship of the alignments to existing and potential residential and-service centres.

4. Identification and evaluation of alternatives

Alternatives such as air service, railway, winter road, road from Quebec and road from Cochrane or other locations nearby should be described and data should be provided if they are being discounted as a feasible option.

If the study has reached and documented the conclusion that the only option is a road, then discussions should focus on the type of road which is preferred in this situation among the following alternatives: winter road, resource road, secondary highway, primary highway.

There is also a need to distinguish between "alternatives to the undertaking" and "alternative methods of carrying out the undertaking".

5. Establishment of a study area

In view of the above options, a study area should be delineated to encapsulate within it the several potential options for transportation to Detour Lake. The area should be described briefly and focus on the main characteristics that have relevance to the identification and selection of an alternative for an access to Detour Lake. Within this context, the environment should be described in terms of terrain, major river systems, distribution of lakes, nature of vegetation (muskeg, land use, etc.).

6. Criteria for road alignment alternatives

The evaluation of alignment alternatives should be subdivided into two main phases: the first would deal with the macro scale evaluation of overall corridors within which, in the second phase, a more specific alignment or centre line will be identified, evaluated, compared and a preferred alignment be selected. The criteria for evaluation should include: cost considerations, distance, the type of terrain and ground conditions necessary for such a road, identification of constraints to be avoided, such as waterbodies, muskeg, environmentally sensitive areas, existing land uses (outfitters, timber operation, Abitibi access roads, etc.). The criteria should include elements to be avoided as well as elements that should be sought for such as an esker ridge, potential mineral resources, etc.

7. Description of methodology

This section should include description of data collection, its analysis and application to corridor and alignment selection. The method by which decisions will be arrived at in narrowing the choice from the study area through to the corridor stage to alignments, among alignments and the definition of the recommended alignment should also be provided. Such methodology may employ the overlay technique where some of the constraints are being marked on a map while additional constraints are marked on an overlay acetate in such a manner that after one or two overlays, one can get an impression as to higher vs. lower constraint areas. In such a system, areas of higher desirability for such a road such as the eskers and muskeg areas could be marked. While this technique is a suggestion of an expedient method for carrying out the analysis, the choice of technique is the proponent's.

The decision-making process should be delineated and explained in very simple, concise terms, (it should be noted that this is a special situation where the circumstances prescribe a limited amount of environmental work to identify and finalize an alignment for a road).

8. Mitigation Measures

The report should lay out a range of mitigation measures to be suitable for the circumstances of this project. For example, timing of construction with regard to spawning grounds and other environmentally sensitive areas, reconstruction of spawning beds, the range of techniques for river and stream crossings, i.e., culverts vs. bridges and erosion control techniques, etc.

9. Archaeological and historical considerations

- what was the method employed in the archaeological field research as stated in the present EA document;
- a description of existing and potential archaeological sites along the esker system should be presented using a map as well as written description;
- given that the stated archaeological sites cover only segments of the area, another statement should cover the potential archaeological sites beyond those that have been investigated;
- some indication should be given as to what specific pits should be avoided because of potential archaeological sites;
- a more definite statement is needed about mitigation measures about archaeological sites and a commitment that during construction the work will be halted when an archaeological site has been discovered;

- an attempt should be made to solicit information from historical societies or other amenity groups;
 - the report should be consistent in the use of measures, i.e., miles vs. kilometres. The report should use either one or the other.
10. Consideration should be given to the integration of the proposed road with the 155 kV transmission line presently being assessed.
 11. Description should be provided of the maintenance of the road contingency plan in case of spillage of oil or toxic material used for the mining operation.
 12. The EA should explain what considerations are given to the abandonment of the mine and the road in the future.
 13. The economic analysis prepared by the MNA should be included in the revised EA document; this should be added to evaluation of all costs related to all alternatives and reason to their selection or rejection.
 14. The final road alignment of the road in the Tweed Lake area should account for MNR concerns and wishes to re-route the present road alignment.

B. Special Considerations:

- a) evaluation of the outfitters' situation and ways of rectifying the potential conflict in land use between the proposed road and the outfitters' operations: it is recommended that a technical committee with representatives from MTC, MIT, and MNR meet with representatives of a citizens' committee to be comprised of the independent outfitters and the NOTO group to assess the conflict and to make recommendations to higher level in government for political decisions (cost in dollars vs. political expediency);
- b) representatives of the Ministry of Transportation and Communications should initiate and conduct some negotiations with a native community via Treaty No. 9 to define the extent of their concern and to establish what can be done about it;
- c) some preliminary evaluation for the initiation of a regional study within which context this study and others could be examined in the present and in the future.

APPENDIX H

DRAFT 2 - NEWS RELEASE

JH:gc - June 25, 1981

FOR FURTHER INFORMATION:

D. Shatil (416) 965-3198

ONTARIO GIVES PERMISSION FOR ROAD TO OPEN UP CANADA'S LARGEST GOLD MINE

The Ontario Government has approved the construction of a road which will permit the rapid development of Canada's largest gold mine, Environment Minister Keith C. Norton announced today.

The project of three resources companies, Detour Lake Gold Mine is planned to begin operating in 1983, northeast of Cochrane and near the Quebec border. At the peak of production a work force of some 500 is anticipated.

The Detour Lake site is being developed by a consortium in which the participants are Amoco Canada Petroleum Limited, Dome Mines Limited and Campbell Red Lake Mines Limited.

Access to the site will be provided by a secondary highway which will extend 158 kilometers (about 100 miles) from the end of Highway 652 east of Cochrane.

Work on the road is expected to take two full construction seasons. Normal approval procedures could be expected to delay the start of construction by a full summer season.

A decision has been taken by the government to exempt the application for construction of this road from the terms of the Environmental Assessment Act and to permit construction to proceed this summer.

Conditions have been attached to the highway construction to ensure that appropriate measures are taken to minimize the impact to the environment.

Early in the planning stages, Amoco Canada Petroleum Limited, the initiator, undertook an environmental study and analysis related to the mine-site planning. This work was carried out voluntarily by the company and its consultants.

Subsequently, there was a period of uncertainty on the part of the joint venture due to market circumstances and new policies of the Federal Government.

When the companies finally indicated that the project would proceed, the government, through the Ministry of Transportation and Communications, began an environmental assessment for the proposed route of the road. The Ministry of Transportation and Communications is responsible for planning, construction and maintenance of the road.

An environmental assessment document was submitted for government review under the Environmental Assessment Act.

In addition to the early environmental analysis carried out by Amoco, the Ministry of Transportation and Communications prepared an environmental assessment document. It recommended that the road go through.

Following initial government review, the original document was found to be deficient and subsequently a new document was submitted which clarified the issues and presented a more concise case for the project.

Attached is a list of the conditions.

APPENDIX I

MTC-42

ORDER MADE UNDER THE ENVIRONMENTAL ASSESSMENT ACT, 1975

Exemption - Ministry of Transportation and Communications

Having received a request from the Minister of Transportation and Communications that an undertaking namely:

The activity of carrying out planning, design, construction and utilization of the Highway 652 Extension, (Detour Lake Access Road and associated campsites, gravel extraction areas and other activities 17.7 kilometers east of Cochrane, northerly for approximately 158 kilometers, be exempted from the application of the Act pursuant to Section 30; and

Having been advised that if the undertaking is subject to the application of the Act, the following damage or interference with the persons indicated will occur:

- A. The public will be interfered with by the resulting delays in construction or postponement of this project which is viewed as being of significant benefit to the people and economy of Ontario; and
- B. The Amoco Canada Petroleum - Dome Mines - Campbell Red Lake Mines consortium, being a mineral extraction joint venture to carry out the development of the Detour Lake resource, will be interfered with and damaged by delays caused by the application of the Act to the undertaking; and
- C. The Crown will be damaged by an increase in the costs of, and interfered with by the delay in the completion of, a project which Cabinet has indicated it wishes to proceed with in an expeditious manner in order to meet a commitment to the mine development consortium that the road will be completed early in 1983 to facilitate the opening of the mine; and

Having weighed such damage or interference against the betterment of the people of the whole or any part of Ontario by the protection, conservation and wise management in Ontario of the environment, which would result from the undertaking being subject to the application of the Act;

The undersigned is of the opinion that it is in the public interest to order and orders, subject to the terms and conditions set out below, that the undertaking is exempt from the application of the Act for the following reasons:

- A. The Government of Ontario has made a commitment to provide access to Detour Lake to facilitate the opening of the mine in early 1983; and

- B. An environmental assessment examining a range of options and their potential impacts was carried out by the proponent which included consultation with government agencies and the public; and
- C. The concerns of government reviewing agencies have been addressed and these agencies are willing to accept the recommended alignment, subject to the conditions outlined below; and
- D. The construction of the access road must be commenced immediately in order to ensure that the total of approximately 158 km. of road will be open on schedule to serve the Detour Lake mine by early 1983; and
- E. The completion of this undertaking as committed will provide significant economic benefits to the people of Ontario in general and in particular to the economy of Northeastern Ontario. This and future economic benefits accruing from potential development of this region of Ontario may be lost if the road is not provided by 1983.

Conditions

- 1. MTC shall hold a public information drop-in meeting in Cochrane as soon as possible after the approval of this exemption and before initiation of construction to inform the local public of the project; and
- 2. MTC shall maintain ongoing contact with concerned ministries and agencies to ensure their input to the construction of the road and the choice of appropriate mitigation measures; and
- 3. MTC shall submit for the public record to MOE, MNR, MCR and the Royal Commission of the Northern Environment a monitoring report after each construction season, outlining the degree of success of the mitigation measures with respect to sensitive areas as identified before and/or during construction. In the case of necessary changes in the construction methods or mitigation measures, MTC shall inform the relevant ministries prior to the following construction season as to what the new activities will be; and,
- 4. MTC shall adhere to its "Highway Construction Practices and Potential Environmental concerns manual 1978" in implementing this undertaking; and
- 5. MTC shall follow the proposed actions as outlined in Section VII of the revised environmental assessment document (pages VII-1 to VII-8) and in particular the following:

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i. Construction of three access points (MNR standards)

- (a) Little Abitibi River
- (b) Floodwood River
- (c) Kattawagami River

The above will be based on designs to be prepared by MNR.

- ii. Retain a heritage resource consultant to survey possible aggregate sources and the right-of-way. MTC shall seek the advice of MCR in the selection of a heritage resource consultant.
 - iii. Contacting the MCR Regional Archaeologist regarding the granular pits to be used.
 - iv. Controlling public access in the construction contract areas.
 - v. Maintain contact with MNR Cochrane District who will assist in the field review and selection of gravel pits and stream crossings during the construction regarding mitigation measures instituted and monitor their effectiveness; and
 - vi. Instituting staged erosion control methods at stream crossings and other erosion susceptible areas; and
6. MTC and contractors shall keep all petroleum products at least 60 m away from any surface waters such as lakes, streams, ponds, etc., where possible. A contingency plan for potential spills shall be submitted to MOE district office in Timmins within two weeks after approval has been granted. Such a plan shall include the availability of equipment at site and immediate notification of MOE office in Timmins in event of a spill.

Dated this _____ day of _____, 1981.

Minister of the Environment

Approved by O.C. No. _____/81.

O. Reg. No. _____/81.

Filed with the Registrar of Regulations _____, 1981.

Ontario Gazette _____, 1981.

